

THE ONE HUNDRED AND NINETEENTH DAY

CARSON CITY (Sunday), May 31, 2015

Senate called to order at 11:16 a.m.

President Hutchison presiding.

Roll called.

All present except Senator Segerblom, who was excused.

Prayer by Senator Scott Hammond.

Our Heavenly Father, we thank Thee, not only for this day, but for the opportunity to serve Thee and to serve our fellow Nevadans here in this Body. We are grateful Father for the opportunity in these last few hours that we have here to be able to contemplate what is necessary for those who live in this great State and to do so in a deliberative and communicative way; that we can work together with those who perhaps have different ideas or ideologies. We pray, Father, that we might be sensitive to the needs of all those who we serve.

We also express appreciation for our colleague, Assemblywoman Dooling, in the other Body, we know she is going through a very difficult time with the loss of her husband. We pray that she would be watched over and given the love and support she needs throughout this very trying time. We are so thankful, Father, that we have this day and all the blessings that are associated with it.

We pray this in the Name of Jesus Christ.

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 Education, to which was referred Senate Bill No. 92, 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 was re-referred Senate Bill No. 325, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, Your Committee on Finance, to which was re-referred Senate Bill No. 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BEN KIECKHEFER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 258, 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 Senate Bill No. 266, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL ROBERSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 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. 69, 103, 128, 292, 360, 491, 498, 507; Assembly Bill No. 488.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 77, 135, 332, 475, 480, 484.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 195, Amendment No. 951; Senate Bill No. 324, Amendments Nos. 1010, 1011; Senate Bill No. 338, Amendment No. 987; Senate Bill No. 432, Amendment No. 933; Senate Bill No. 489, Amendment No. 995, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 512 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Senator Roberson moved that Senate Bill No. 433 be taken from the General File and placed on the General File on the last Agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 513—AN ACT relating to programs for public personnel; revising provisions relating to the subsidy paid for benefits for certain state employees who return to work for the State after a break in service; establishing for the 2015-2017 biennium the subsidies to be paid to the Public Employees' Benefits Program for insurance for certain active and retired public officers and employees; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 514—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the 2015-2017 biennium; providing for the use of the money so appropriated; making various other changes relating to the financial administration of the State; repealing the prospective expiration of certain provisions relating to

the Nevada Supreme Court; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 515—AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2015-2017 biennium; apportioning the State Distributive School Account in the State General Fund for the 2015-2017 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; making contingent appropriations for certain educational programs and services; temporarily diverting the money from the State Supplemental School Support Account to the State Distributive School Account for use in funding operating costs and other expenditures of school districts; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 77.

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

Motion carried.

Assembly Bill No. 135.

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

Motion carried.

Assembly Bill No. 332.

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

Motion carried.

Assembly Bill No. 475.

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

Motion carried.

Assembly Bill No. 480.

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

Motion carried.

Assembly Bill No. 484.

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

Motion carried.

Assembly Bill No. 485.

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

Motion carried.

Assembly Bill No. 488.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 92.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 1035.

SUMMARY—Revises provisions relating to ~~[personnel of public schools.]~~ education. (BDR 34-485)

AN ACT relating to education; ~~[requiring any teacher or substitute teacher hired to teach in any public school to be highly qualified; revising the qualifications for an administrator in a charter school; requiring certain schools to employ an assistant principal; requiring the board of trustees of a school district to adopt certain policies; providing that certain postprobationary employees revert to probationary status under certain circumstances; requiring that the statewide performance evaluation system take certain factors into account for the evaluation of district-level administrators;]~~ authorizing the designation of certain underperforming schools as turnaround schools; allowing certain measures to be taken with respect to the administration and personnel of such schools; excluding the right of a school district to make reassignments of a principal or teacher from such a school from the scope of collective bargaining; providing for certain incentives to encourage employment at a school designated as a turnaround school; revising provisions relating to the reassignment of a teacher or administrator whose overall performance is designated as minimally effective or ineffective; requiring the board of trustees of a school district to consider specified factors in carrying out a reduction in force; directing the Legislative Counsel to reorganize certain statutory provisions relating to education; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Federal law requires school districts that receive certain federal funds to ensure that all teachers hired after a certain date are highly qualified. (20 U.S.C. 6319(a)) In order to be "highly qualified" under federal law, a~~

~~teacher is required to: (1) have full state certification or have passed the state teacher licensing examination; (2) hold a license in the state in which he or she is teaching; and (3) meet certain other requirements. (20 U.S.C. 7801(23)) Existing law requires a teacher who teaches certain subjects in certain public schools to be highly qualified. (NRS 386.590, 391.100) Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, sections 9 and 20 of this bill require any teacher or substitute teacher hired to teach in any public school, including a charter school, to be highly qualified. Sections 2, 3, 10, 14-19, 22 and 23 of this bill make changes consistent with this requirement. Sections 5 and 13 of this bill prohibit a school district or the governing body of a charter school from attempting to avoid compliance with this requirement.~~

~~Existing law also authorizes the governing body of a charter school to employ such administrators as it deems necessary and requires that a person employed as an administrator possess one of the following: (1) a valid teacher's license with an administrative endorsement; (2) a master's degree in school, public or business administration; or (3) a baccalaureate degree and at least 5 years of experience in school, business or public administration. (NRS 386.590) Section 9 revises those requirements to provide that a person employed as an administrator must possess all of those qualifications. Section 20 requires any vacancy in an assistant principal position in a school other than a charter school to be filled before any vacancy in an administrative position at a district level.]~~

Section 4.2 of this bill provides that if the Department of Education designates a public school as a turnaround school, the board of trustees of the school district in which the school is located may review the performance of the principal of the school and decide whether to retain or replace the principal. Section 4.2 requires the State Board of Education to adopt regulations to establish the criteria for designating an underperforming school as a turnaround school.

The principal of a school so designated is authorized by section 4.2 to review the performance of the employees of the school and decide whether to retain or replace each employee. If a principal or employee of such a school is not retained, the board of trustees is required to reassign the principal or employee to another school within the school district. Section 29.7 of this bill excludes certain actions concerning the reassignment of employees who are not retained at such a school from the scope of collective bargaining. Section 4.2 requires the board of trustees of a school district to ensure that a teacher who is reassigned to another school receives assistance to help the teacher to meet the standards for effective teaching.

Section 4.2 also requires the board of trustees of a school district to create financial and other incentives to motivate teachers, administrators and paraprofessionals to accept positions at a public school that the Department

designates as a turnaround school. Sections 24 and 25 of this bill provide that for the first and second years after a school has been designated as a turnaround school an evaluation of pupil performance will not be included in the evaluation of a teacher or administrator of the school. ~~[Existing law establishes a system of objective evaluation of teachers, administrators and other licensed personnel in a school district. (NRS 391.3125, 391.3127) Existing law provides that when a teacher or administrator is hired, he or she is employed as a probationary employee for 3 years and has no right to employment after any of those 3 years. Existing law further provides that a probationary employee who completes a 3 year probationary period and meets certain other requirements becomes a postprobationary employee in the ensuing year of employment. (NRS 391.3197) Existing law requires a postprobationary teacher or administrator who receives an evaluation designating his or her performance as minimally effective or ineffective to be evaluated three times in the immediately succeeding school year. (NRS 391.3125, 391.3127) Existing law also provides that a postprobationary employee who receives an evaluation designating his or her performance as minimally effective or ineffective for 2 consecutive school years becomes a probationary employee. (NRS 391.3129) Section 26 of this bill instead provides that, upon the issuance of a first evaluation designating a postprobationary employee as minimally effective or ineffective, the employee reverts to probationary status.~~

~~Existing law requires the Teachers and Leaders Council of Nevada to make recommendations to the State Board of Education concerning the adoption of regulations for establishing a statewide performance evaluation system. (NRS 391.460) Existing law requires the State Board to adopt regulations establishing such a system based upon the recommendations of the Council. (NRS 391.465) Section 28 of this bill requires the performance evaluation system recommended by the Council to ensure that each district level administrator is evaluated using a system that takes into account the level of resources provided to the schools under the administrative supervision of the administrator. Section 29 of this bill requires that the State Board include this recommendation in the statewide performance evaluation system.]~~

Existing law authorizes the board of trustees of a school district to employ a superintendent of schools, teachers and all other necessary employees. Section 20 of this bill allows the board of trustees of a school district to transfer a teacher or administrator, notwithstanding the provisions of a collective bargaining agreement to the contrary, if the teacher or administrator received one of the two lowest ratings on his or her evaluation if the board of trustees obtains the consent of the principal at the other school before transferring the teacher or administrator. If a principal does not provide such consent, section 20 allows the superintendent of schools of the

school district to determine whether to reassign the teacher or administrator to a school in the school district, which may be the school at which the principal did not consent to the transfer of the teacher or administrator. Section 20 also requires a superintendent of schools to develop a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as minimally effective or ineffective when consent to the transfer by the principal of a school is not obtained.

Existing law provides that when a reduction in the workforce is necessary, the board of trustees of a school district must not lay off a teacher or an administrator based solely on seniority. (NRS 288.151) Section 30 of this bill requires the board of trustees of a school district to ~~consider certain factors when reducing the workforce.~~ base the decision to lay off a teacher or administrator on the overall performance of the teacher or administrator and lay off the least effective teachers and administrators first. Section 30 also provides that, if a further reduction in workforce is necessary, the board of trustees must lay off teachers who have a criminal record which has resulted in a suspension or who have had disciplinary action taken that results in suspension and is final. If a further reduction in workforce is necessary after considering criminal records and disciplinary action, section 30 requires the board of trustees to consider: (1) whether the teacher or administrator is employed in a position which is hard to fill; and (2) certain certifications and degrees. If, after considering all of the above factors, two or more employees are similarly situated after the application of those factors, the decision by the board of trustees to lay off one or more of the employees may be based on seniority. Finally, section 30 does not require the board of trustees of a school district to consider the above factors with respect to a teacher who teaches in a subject area for which there is a shortage of teachers.

Under existing law, the Legislative Counsel is required to keep the organizational structure of the Nevada Revised Statutes current, and the Legislative Counsel may revise the titles, chapters and sections of the Nevada Revised Statutes when necessary to effectuate the orderly and logical arrangement of the statutes. (NRS 220.120) In addition, the Legislative Counsel may make recommendations to the Legislature regarding the clarification of existing statutes and the revision or elimination of obsolete and antiquated statutes. (NRS 220.080, 220.085) Section 32.5 of this bill directs the Legislative Counsel to reorganize the provisions of title 34 of NRS during the 2015-2017 biennium so that they are easier to use and understand. Section 32.5 also requires the Legislative Counsel to present a bill during the 2017 Legislative Session containing any provisions of title 34 of NRS revised during the reorganization that the Legislative Counsel determines are appropriate for ratification by the Legislature.

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

Section 1. ~~[NRS 385.007 is hereby amended to read as follows:~~

~~385.007 As used in this title, unless the context otherwise requires:~~

~~1. "Charter school" means a public school that is formed pursuant to the provisions of NRS 386.490 to 386.649, inclusive [.] , and section 5 of this act.~~

~~2. "Department" means the Department of Education.~~

~~3. "Homeschooled child" means a child who receives instruction at home and who is exempt from compulsory attendance pursuant to NRS 392.070.~~

~~4. "Limited English proficient" has the meaning ascribed to it in 20 U.S.C. 7801(25).~~

~~5. "Public schools" means all kindergartens and elementary schools, junior high schools and middle schools, high schools, charter schools and any other schools, classes and educational programs which receive their support through public taxation and, except for charter schools, whose textbooks and courses of study are under the control of the State Board.~~

~~6. "State Board" means the State Board of Education.~~

~~7. "University school for profoundly gifted pupils" has the meaning ascribed to it in NRS 392A.040.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 385.3478 is hereby amended to read as follows:~~

~~385.3478 1. The annual report of accountability prepared pursuant to NRS 385.347 must include information on teachers and paraprofessionals, including, without limitation:~~

~~(a) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The information must include, without limitation:~~

~~(1) The percentage of teachers who are:~~

~~(I) Providing instruction pursuant to NRS 391.125; or~~

~~(II) [Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or~~

~~(III)] Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;~~

~~(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;~~

~~(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high poverty compared to low poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;~~

~~(4) For each middle school, junior high school and high school:~~

~~(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of~~

~~days long term substitute teachers were employed at each school, identified by grade level and subject area; and~~

~~(H) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short term substitute teachers, including the total number of days short term substitute teachers were employed at each school, identified by grade level and subject area; and~~

~~(5) For each elementary school:~~

~~(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long term substitute teachers, including the total number of days long term substitute teachers were employed at each school, identified by grade level; and~~

~~(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short term substitute teachers, including the total number of days short term substitute teachers were employed at each school, identified by grade level.~~

~~(b) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The records of attendance maintained by a school for purposes of this paragraph must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:~~

~~(1) Acquisition of knowledge or skills relating to the professional development of the teacher; or~~

~~(2) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.~~

~~(c) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school sponsored by the district. The information must include:~~

~~(1) The number of paraprofessionals employed at the school; and~~

~~(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. 6319(e). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.~~

~~2. As used in this section:~~

~~(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. 7801(23).~~

~~(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.]~~
~~(Deleted by amendment.)~~

Sec. 3. ~~[NRS 385.3581 is hereby amended to read as follows:~~

~~385.3581 1. The annual report of accountability prepared by the State Board pursuant to NRS 385.3572 must include information on teachers and paraprofessionals, including, without limitation:~~

~~(a) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:~~

~~(1) The percentage of teachers who are:~~

~~(I) Providing instruction pursuant to NRS 391.125; or~~

~~(II) [Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or~~

~~(III)] Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;~~

~~(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;~~

~~(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high poverty compared to low poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;~~

~~(4) For each middle school, junior high school and high school:~~

~~(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long term substitute teachers, including the total number of days long term substitute teachers were employed at each school, identified by grade level and subject area; and~~

~~(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short term substitute teachers, including the total number of days short term substitute teachers were employed at each school, identified by grade level and subject area; and~~

~~(5) For each elementary school:~~

~~(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long term substitute teachers, including the total number of days long term substitute teachers were employed at each school, identified by grade level; and~~

~~(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short term substitute teachers, including the total number of days short term substitute teachers were employed at each school, identified by grade level.~~

~~(b) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.~~

~~— (e) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:~~

~~— (1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and~~

~~— (2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. 6319(e). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.~~

~~— 2. As used in this section:~~

~~— (a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. 7801(23).~~

~~— (b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.]
(Deleted by amendment.)~~

Sec. 4. ~~[NRS 385.635 is hereby amended to read as follows:~~

~~385.635 1. The Office of Parental Involvement and Family Engagement created by NRS 385.630 shall:~~

~~— (a) Review and evaluate the programs implemented by the school districts and public schools, including, without limitation, programs which are supported in part with money received from the Federal Government, for carrying out and increasing parental involvement and family engagement in the public schools. The review and evaluation must include an identification of current strategies and practices for effective parental involvement and family engagement.~~

~~— (b) Develop a list of practices which have been proven effective in increasing the involvement of parents and the engagement of families in the education of their children, including, without limitation, practices that increase the ability of school districts and public schools to effectively reengage parents and families and provide those parents and families with the skills and resources necessary to support the academic achievement of their children.~~

~~— (c) Work in cooperation with the Statewide Council for the Coordination of the Regional Training Programs in carrying out the duties of the Office, including, without limitation, the establishment of a statewide training program concerning parental involvement and family engagement required pursuant to NRS 391.520.~~

~~— (d) Provide information to the school districts and public schools on the availability of competitive grants for programs which offer:~~

~~— (1) Professional development for educational personnel on practices to reengage disengaged parents and families in the education of their children;~~

~~— (2) Training for parents and families in skills of leadership and volunteerism;~~

~~— (3) Family literacy training;~~

~~— (4) Home visitation programs to encourage the involvement of parents and the engagement of families in the education of their children; and~~

~~— (5) Other innovative programs that are designed to increase the involvement of parents and the engagement of families in the academic achievement of their children.~~

~~— (e) Provide support to those school districts which have established an advisory council on parental involvement and family engagement pursuant to NRS 385.625 and encourage those school districts which have not established such an advisory council to consider creating an advisory council for the school district.~~

~~— (f) Build the capacity of public schools to work in collaboration with parents to establish policies for the involvement of parents and the engagement of families, including, without limitation, policies that focus on partnerships between public schools and the parents and families of children enrolled in public schools and the empowerment of parents and families in support of the education of their children.~~

~~— (g) Work in cooperation with the Commission on Professional Standards in Education in developing the regulations required by paragraph [(k)] (g) of subsection 1 of NRS 391.019 and monitoring the implementation of those regulations.~~

~~— (h) Establish, in collaboration with the State Board, guidelines to assist parents and families in helping their children achieve the standards of content and performance adopted by the State Board pursuant to NRS 389.520.~~

~~— (i) Collaborate with the Nevada State Parent Information and Resource Center, the Parent Training and Information Centers, the Nevada Parent Teacher Association, the Advisory Council and the teachers who are trained to serve as liaisons to parents and legal guardians of pupils enrolled in public schools to plan and implement a statewide summit on parental involvement and family engagement, which must be held at least biennially. After each summit, the Office of Parental Involvement and Family Engagement shall evaluate the success of the summit in consultation with the entities identified in this paragraph.~~

~~— (j) Assist each school district and the public schools within the school district with incorporating strategies and practices for effective parental involvement and family engagement into the plans to improve the achievement of pupils prepared by the public schools pursuant to NRS 385.357.~~

~~— (k) Work in partnership with the Advisory Council to:~~

~~— (1) Review and evaluate the annual reports of accountability prepared by the board of trustees of each school district pursuant to NRS 385.347~~

~~relating to parental involvement and family engagement in the school districts and public schools;~~

~~— (2) Review and evaluate the plans to improve the achievement of pupils prepared by each public school pursuant to NRS 385.357 relating to the strategies and practices for effective parental involvement and family engagement incorporated into the plans; and~~

~~— (3) Review the status of the implementation of the provisions of this section and the effectiveness of the Office in carrying out the duties prescribed in this section.~~

~~2. On or before August 1 of each year, the Office of Parental Involvement and Family Engagement shall prepare a report which includes a summary of the:~~

~~— (a) Status of the progress made by the school districts and public schools in effectively involving parents and engaging families in the education of their children and an identification of any areas where further improvement is needed; and~~

~~— (b) Activities of the Office during the immediately preceding school year, including the progress made by the Office, in consultation with the Advisory Council, in assisting the school districts and public schools with increasing the effectiveness of involving parents and engaging families in the education of their children.~~

~~3. The Department shall post on its Internet website:~~

~~— (a) The list of practices developed by the Office of Parental Involvement and Family Engagement pursuant to paragraph (b) of subsection 1;~~

~~— (b) The report prepared by the Office pursuant to subsection 2; and~~

~~— (c) Any other information that the Office finds useful for the school districts, public schools, parents, families and general public relating to effective parental involvement and family engagement.] (Deleted by amendment.)~~

Sec. 4.2. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Department designates a school as a turnaround school pursuant to this section:

(a) The board of trustees of the school district in which the school is located may review the performance of the principal at the school to determine whether to retain or replace the principal. If the board of trustees decides to replace the principal, the board of trustees must:

(1) Immediately commence the process of selecting a new principal for the school to make a selection with the approval of the Department so that the new principal may begin before the start of the next school year; and

(2) Reassign the replaced principal to another public school within the school district.

(b) The principal of the school may:

(1) Review the performance of each employee of the school to determine whether to retain the employee based on the needs of the school. The board of trustees of the school district in which the school is located shall reassign any employee who is not retained pursuant to this subparagraph to another public school within the school district; and

(2) Make all determinations for the school concerning hiring and the school's curriculum, schedule and instructional design.

(c) The board of trustees of the school district in which the school is located shall create financial and other incentives to be offered to teachers, administrators and paraprofessionals who work in classrooms or provide tutoring to pupils at the school that are intended to motivate such persons to apply for positions with the school and continue employment with the school. Such incentives may include, without limitation:

(1) Salary increases and bonuses;

(2) Flexible schedules that allow teachers to pursue other assignments or education;

(3) Opportunities to receive training and to participate in programs for professional development; and

(4) Opportunities for promotion and career development.

2. If a teacher of a school is reassigned to another public school within the school district pursuant to subparagraph (1) of paragraph (b) of subsection 1, the board of trustees of the school district shall ensure that the teacher receives assistance to help the teacher meet the standards for effective teaching, which may include, without limitation, peer assistance and review, participation in programs of professional development and other appropriate training.

3. If a determination made by the principal of a school pursuant to paragraph (b) of subsection 1 will:

(a) Increase the cost of operating the school, the principal must seek to obtain any available grant from the Department and request any necessary additional amount of money from the board of trustees of the school district.

(b) Decrease the cost of operating the school, the board of trustees of the school district must not reduce the amount of money allocated to the school as a result of the savings.

4. The State Board shall, in consultation with the board of trustees of each school district, establish, by regulation, the criteria for designating an underperforming school as a turnaround school for the purposes of this section. Such criteria must use current data from multiple sources.

Sec. 4.7. 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]~~ subsections 9 and 10 of NRS 391.3125 and ~~[subsection]~~ subsections 8 and 9 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. 5. ~~[Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~The governing body of a charter school shall not attempt to avoid compliance with the requirements of subsection 1 of NRS 386.590 in any manner, including, without limitation by:~~

~~1. Combining classes; or~~

~~2. Requiring teachers who meet the qualifications required by subsection 1 of NRS 386.590 to act as substitute teachers during a period that would otherwise be a preparatory period.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 386.490 is hereby amended to read as follows:~~

~~386.490 As used in NRS 386.490 to 386.649, inclusive, and section 5 of this act, the words and terms defined in NRS 386.492 to 386.503, inclusive, have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 386.535 is hereby amended to read as follows:~~

~~386.535 Except as otherwise provided in NRS 386.5351:~~

~~1. The sponsor of a charter school may revoke a written charter or terminate a charter contract before the expiration of the charter if the sponsor determines that:~~

~~(a) The charter school, its officers or its employees:~~

~~(1) Committed a material breach of the terms and conditions of the written charter or charter contract;~~

~~(2) Failed to comply with generally accepted standards of fiscal management;~~

~~(3) Failed to comply with the provisions of NRS 386.490 to 386.649, inclusive, and section 5 of this act or any other statute or regulation applicable to charter schools; or~~

~~— (4) If the charter school holds a charter contract, has persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;~~

~~— (b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or~~

~~— (c) There is reasonable cause to believe that revocation or termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.~~

~~— 2. Before the sponsor revokes a written charter or terminates a charter contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:~~

~~— (a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;~~

~~— (b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;~~

~~— (c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and~~

~~— (d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the written charter or terminate the charter contract.~~

~~— 3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to revoke the written charter or terminate the charter contract. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter or terminate the charter contract of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.~~

~~— 4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.~~

~~— 5. If the written charter is revoked or the charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the~~

~~reasons for the termination not later than 10 days after revoking the written charter or terminating the charter contract.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 386.551 is hereby amended to read as follows:
386.551 The provisions of NRS 386.490 to 386.649, inclusive, and
section 5 of this act and any other statute or regulation applicable to a charter
school or its officers or employees govern the formation and operation of
charter schools in this State.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 386.590 is hereby amended to read as follows:
386.590 1. [Except as otherwise provided in this subsection, at least
70 percent of the teachers who provide instruction at a charter school must be
licensed teachers. If a charter school is a vocational school, the charter school
shall, to the extent practicable, ensure that at least 70 percent of the teachers
who provide instruction at the school are licensed teachers, but in no event
may more than 50 percent of the teachers who provide instruction at the
school be unlicensed teachers.~~

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

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

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

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

~~(1) If a charter school specializes in arts and humanities, physical
education or health education, a licensed teacher to teach those courses of
study.~~

~~(2) If a charter school specializes in the construction industry or other
building industry, licensed teachers to teach courses of study relating to the
industry. [if those teachers are employed full time.]~~

~~(3) If a charter school specializes in the construction industry or other
building industry and the school offers courses of study in computer
education, technology or business, licensed teachers to teach those courses of
study. [if those teachers are employed full time.~~

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

~~4. A]~~

~~2. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, a teacher or substitute teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, [2006,] 2015, possess the qualifications required by 20 U.S.C. 6319(a) . [if the teacher teaches one or more of the following subjects:~~

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

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

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

~~6.] 3. Except as otherwise provided in subsection 4 and NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:~~

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

~~[7.] 4. A charter school shall employ an assistant principal. Any person employed as an assistant principal must meet the requirements for licensure for an administrator prescribed by the Commission on Professional Standards in Education pursuant to NRS 391.019 at the time he or she begins his or her employment as an assistant principal.~~

~~5. Except as otherwise provided in subsection [8,] 6, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the~~

~~salary or other compensation of the superintendent of schools of that school district must not be included in the determination. [8.] 6. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection [7.] 5, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection [7.] 5.~~

~~[9.] 7. A charter school shall not employ a person pursuant to this section if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.~~

~~[10.] 8. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each person who is licensed pursuant to chapter 391 of NRS and who is employed by the governing body on October 1 of that year:~~

~~(a) The amount of salary or compensation of the licensed person, including, without limitation, verification of compliance with subsection [7.] 5, if applicable to that person; and~~

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

~~Sec. 10. [NRS 386.595 is hereby amended to read as follows:~~

~~386.595 1. All employees of a charter school shall be deemed public employees.~~

~~2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.~~

~~3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include,~~

~~without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.~~

~~4. Except as otherwise provided in this subsection, if the written charter of a charter school is revoked or a charter contract is terminated, as applicable, or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:~~

~~— (a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;~~

~~— (b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; [or]~~

~~— (c) Fails to comply with the requirements of subsection 3 of NRS 391.100; or~~

~~— (d) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.~~

~~5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.~~

~~6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:~~

~~—(a) The dismissal of the employee from employment with the school district; or~~

~~—(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.~~

~~7. If a school district conducts an investigation pursuant to subsection 6:~~

~~—(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and~~

~~—(b) The investigation must be conducted within a reasonable time.~~

~~8. A licensed employee who is on a leave of absence from a school district pursuant to this section:~~

~~—(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.~~

~~—(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.~~

~~↔ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.~~

~~9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.~~

~~10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.~~

~~11. For all employees of a charter school:~~

~~— (a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.~~

~~— (b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.~~

~~— 12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:~~

~~— (a) Ensure that the premiums for that insurance are paid to the board of trustees; and~~

~~— (b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.] (Deleted by amendment.)~~

Sec. 11. ~~[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 385.357; 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] 8 of NRS 391.3125 and subsection [8] 7 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.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 388.866 is hereby amended to read as follows:~~

~~388.866 1. The board of trustees of a school district or the governing body of a charter school that provides a program of distance education shall ensure that:~~

~~(a) For each course offered through the program, a teacher:~~

~~(1) Provides the work assignments to each pupil enrolled in the course that are necessary for the pupil to complete the course;~~

~~(2) Meets or otherwise communicates with the pupil at least once each week during the course to discuss the pupil's progress; and~~

~~(3) Enters into a written agreement with the pupil and the pupil's parent or legal guardian outlining the objectives of the course, the timeline for completion of the course and the method by which the progress of the pupil will be assessed; or~~

~~(b) The program satisfies the requirements of a plan to operate an alternative program of education submitted by the school district and approved pursuant to NRS 388.537.~~

~~2. [If a course offered through a program of distance education is a core academic subject, as defined in NRS 389.018, the] *Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, the teacher who fulfills the requirements of subsection 1 must [be a:*~~

~~(a) Licensed teacher; or~~

~~(b) Teacher, instructor or professor who provides instruction at a community college or university. Such a teacher, instructor or professor may only be assigned to a course of distance education in the subject area for which he or she provides instruction at a community college or university.] *possess, on or before July 1, 2015, the qualifications required by 20 U.S.C. 6319(a).* (Deleted by amendment.)~~

Sec. 13. ~~[Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*A school district shall not attempt to avoid compliance with the requirements of subsection 3 of NRS 391.100 in any manner, including, without limitation by:*~~

~~1. *Combining classes; or*~~

~~2. *Requiring teachers who meet the qualifications required by subsection 3 of NRS 391.100 to act as substitute teachers during a period that would otherwise be a preparatory period.*~~ (Deleted by amendment.)

Sec. 14. ~~[NRS 391.019 is hereby amended to read as follows:~~

~~391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:~~

~~(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:~~

~~— (1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:~~

~~— (I) Establish the requirements for approval as a qualified provider;~~

~~— (II) Require a qualified provider to be selective in its acceptance of students;~~

~~— (III) Require a qualified provider to provide supervised, school based experiences and ongoing support for its students, such as mentoring and coaching;~~

~~— (IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;~~

~~— (V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;~~

~~— (VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and~~

~~— (VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.~~

~~— (2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.~~

~~— (b) Identifying fields of specialization in teaching which require the specialized training of teachers.~~

~~— (c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization, including, without limitation, an endorsement to teach English as a second language based upon the recommendations of the English Mastery Council pursuant to NRS 388.411.~~

~~— (d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.~~

~~— (e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division~~

~~of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.~~

~~— (f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:~~

~~— (1) Provide instruction or other educational services; and~~

~~— (2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.~~

~~— (g) [Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:~~

~~— (1) At least 2 years of experience teaching at an accredited degree granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or~~

~~— (2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.~~

~~→ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.~~

~~— (h) Requiring an applicant for a special qualifications license to:~~

~~— (1) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or~~

~~— (2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.~~

~~— (i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.~~

~~— (j) Providing for the issuance and renewal of a special qualifications license to an applicant who:~~

~~— (1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;~~

~~— (2) Is not licensed to teach public school in another state;~~

~~— (3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and~~

~~— (4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year~~

of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

➔ An applicant for licensure pursuant to this paragraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

~~— (k)] Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.~~

~~— 2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.~~

~~— 3. Any regulation which increases the amount of education, training or experience required for licensing:~~

~~— (a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change;~~

~~— (b) Must not become effective until at least 1 year after the date it is adopted by the Commission;~~

~~— (c) Is not applicable to a license in effect on the date the regulation becomes effective.~~

~~— [4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:~~

~~— (a) Shall comply with all applicable statutes and regulations.~~

~~— (b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.~~

~~— (c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.]] (Deleted by amendment.)~~

Sec. 15. [NRS 391.021 is hereby amended to read as follows:

~~— 391.021 Except as otherwise provided in [paragraph (j) of subsection 1 of NRS 391.019 and] NRS 391.027, the Commission shall adopt regulations governing examinations for the initial licensing of teachers and other educational personnel. The examinations must test the ability of the applicant to teach and the applicant's knowledge of each specific subject he or she proposes to teach. Each examination must include the following subjects:~~

~~— 1. The laws of Nevada relating to schools;~~

~~2. The Constitution of the State of Nevada; and~~

~~3. The Constitution of the United States.~~

~~→ The provisions of this section do not prohibit the Commission from adopting regulations pursuant to subsection 2 of NRS 391.032 that provide an exemption from the examinations for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State. (Deleted by amendment.)~~

Sec. 16. ~~[NRS 391.031 is hereby amended to read as follows:~~

~~391.031 There are the following kinds of licenses for teachers and other educational personnel in this State:~~

~~1. A license to teach elementary education, which authorizes the holder to teach in any elementary school in the State.~~

~~2. A license to teach middle school or junior high school education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in grades 7, 8 and 9 at any middle school or junior high school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.~~

~~3. A license to teach secondary education, which authorizes the holder to teach in his or her major or minor field of preparation or in both fields in any secondary school. He or she may teach only in these fields unless an exception is approved pursuant to regulations adopted by the Commission.~~

~~4. A license to teach special education, which authorizes the holder to teach pupils with disabilities or gifted and talented pupils, or both.~~

~~[5. A special license, which authorizes the holder to teach or perform other educational functions in a school or program as designated in the license.~~

~~6. A special license designated as a special qualifications license, which authorizes the holder to teach only in the grades and subject areas designated in the license. A special qualifications license is valid for 3 years and may be renewed in accordance with the applicable regulations of the Commission adopted pursuant to paragraph (g) or (j) of subsection 1 of NRS 391.019.]] (Deleted by amendment.)~~

Sec. 17. ~~[NRS 391.032 is hereby amended to read as follows:~~

~~391.032 1. Except as otherwise provided in NRS 391.027, the Commission shall:~~

~~(a) Consider and may adopt regulations which provide for the issuance of conditional licenses to teachers and other educational personnel [before completion of all courses of study or other requirements for a license in this State.] participating in an alternative route to licensure that complies with the requirements of 34 C.F.R. 200.56(a)(2)(ii)(A).~~

~~(b) Adopt regulations which provide for the reciprocal licensure of educational personnel from other states, including, without limitation, for the~~

~~reciprocal licensure of persons who hold a license to teach special education. Such regulations must include, without limitation, provisions for the reciprocal licensure of persons who obtained a license pursuant to an alternative route to licensure which the Commission determines is as rigorous or more rigorous than the alternative route to licensure prescribed pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.~~

~~2. The regulations adopted pursuant to paragraph (b) of subsection 1 may provide an exemption from the examinations required for initial licensure for teachers and other educational personnel from another state if the Commission determines that the examinations required for initial licensure for teachers and other educational personnel in that state are comparable to the examinations required for initial licensure in this State.~~

~~3. A person who is issued a conditional license pursuant to this section must complete all courses of study and other requirements for a license in this State which is not conditional within 3 years after the date on which a conditional license is issued.] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 391.033 is hereby amended to read as follows:~~

~~391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.~~

~~2. An application for the issuance of a license must include the social security number of the applicant.~~

~~3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its initial report on the criminal history of the applicant and for reports thereafter upon renewal of the license pursuant to subsection 6 of NRS 179A.075, and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.~~

~~4. [The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.~~

~~5.] A license must be issued to, or renewed for, as applicable, an applicant if:~~

~~(a) The Superintendent determines that the applicant is qualified;~~

~~(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:~~

~~(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or~~

~~(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or~~

~~charter school for which the applicant applied or for which he or she is currently employed, as applicable; and~~

~~(e) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.} (Deleted by amendment.)~~

Sec. 19. ~~[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.~~

~~(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.} (Deleted by amendment.)~~

Sec. 20. NRS 391.100 is hereby amended to read as follows:

391.100 1. The board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.

2. A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. 6319(a). For the purposes of this subsection, a person is not "initially hired" if he or she has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by the person's current employer. ~~{The board of trustees of a school district shall employ an assistant principal in each elementary or secondary school in the district. Any vacancy in an assistant principal position in any elementary or secondary school in a school district must be filled before any vacancy in an administrative position at the district level. Any person employed as an assistant principal, including, without limitation, to fill a vacancy, must meet the requirements for licensure for an administrator prescribed by the Commission on Professional Standards in Education pursuant to NRS 391.019 at the time he or she begins his or her employment as an assistant principal.}~~

3. Δ [Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, a] ~~{~~ person who is employed as a ~~teacher or substitute~~ teacher, regardless of the date of hire,

must possess, on or before July 1, 2006, ~~2015,~~ the qualifications required by 20 U.S.C. 6319(a) if the person teaches:

(a) English, reading or language arts;

(b) Mathematics;

(c) Science;

(d) Foreign language;

(e) Civics or government;

(f) Economics;

(g) Geography;

(h) History; or

(i) The arts.

4. ~~The~~ Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, before the board of trustees of a school district may transfer a teacher or administrator who has received an evaluation designating his or her overall performance as minimally effective or ineffective to another school as a result of decreased enrollment, administrative transfer or a reduction in workforce at a public school, the board of trustees of ~~the~~ the school district ~~the~~ must obtain the consent of the principal of the school to which the teacher or administrator is proposed to be transferred. If such consent is not obtained, the superintendent of schools of the school district:

(a) May assign the teacher or administrator to a school within the district other than the school from which the teacher or administrator was transferred; and

(b) May assign the teacher or administrator to the school at which the principal did not consent to the transfer of the teacher or administrator.

5. The board of trustees of a school district:

(a) May employ teacher aides and other auxiliary, nonprofessional personnel to assist licensed personnel in the instruction or supervision of children, either in the classroom or at any other place in the school or on the grounds thereof. A person who is initially hired as a paraprofessional by a school district on or after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. 6319(c). A person who is employed as a paraprofessional by a school district, regardless of the date of hire, to work in a program supported with Title I money must possess, on or before January 8, 2006, the qualifications required by 20 U.S.C. 6319(c). For the purposes of this paragraph, a person is not "initially hired" if he or she has been employed as a paraprofessional by another school district or charter school in this State without an interruption in employment before the date of hire by the person's current employer.

(b) Shall establish policies governing the duties and performance of teacher aides.

~~{5.}~~ 6. *The superintendent of schools of a school district shall develop a plan to address the assignment of teachers or administrators who have received evaluations designating their overall performance as minimally effective or ineffective when the consent of a principal to a transfer pursuant to subsection 4 is not obtained. Such a plan must include, without limitation, a plan for any such teacher or administrator to receive assistance to help the teacher or administrator, as applicable, meet the standards for effective teaching, which may include, without limitation, peer assistance and review, participation in programs of professional development and other appropriate training.*

7. Each applicant for employment pursuant to this section, except a teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to employment, submit to the school district a full set of the applicant's fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

~~{6.}~~ 8. Except as otherwise provided in subsection ~~{7.}~~ 9, the board of trustees of a school district shall not require a licensed teacher or other person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district, including, without limitation:

- (a) Sick leave;
- (b) Sabbatical leave;
- (c) Personal leave;
- (d) Leave for attendance at a regular or special session of the Legislature of this State if the employee is a member thereof;
- (e) Maternity leave; and
- (f) Leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.,

➔ to submit a set of his or her fingerprints as a condition of return to or continued employment with the school district if the employee is in good standing when the employee began the leave.

~~{7.}~~ 9. A board of trustees of a school district may ask the Superintendent of Public Instruction to require a person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district to submit a set of his or her fingerprints as a condition of return to or continued employment with the school district if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during the period of his or her leave of absence.

~~{8.}~~ 10. The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school

district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer. In addition, persons who provide police services pursuant to subsection ~~[9.] 11~~ or ~~[10.] 12~~ shall be deemed school police officers.

~~[9.] 11.~~ The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district and on property owned by the school district, but outside the jurisdiction of the metropolitan police department.

~~[10.] 12.~~ The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district and on property therein that is owned by the school district. Sec. 21. ~~[NRS 391.120 is hereby amended to read as follows:~~

~~— 391.120 1. Boards of trustees of the school districts in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.~~

~~— 2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.~~

~~— 3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. Except as otherwise provided in NRS 391.3015, the board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to~~

~~this chapter in force. [, if such a license is required for employment.] Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.~~

~~4. On or before November 15 of each year, the school district shall submit to the Department, in a form prescribed by the Superintendent of Public Instruction, the following information for each licensed employee employed by the school district on October 1 of that year:~~

~~(a) The amount of salary of the employee; and
(b) The designated assignment, as that term is defined by the Department, of the employee.] (Deleted by amendment.)~~

Sec. 22. ~~[NRS 391.170 is hereby amended to read as follows:~~

~~391.170 1. Except as otherwise provided in subsection 2, a] 4 teacher or other employee for whom a license is required is not entitled to receive any portion of public money for schools as compensation for services rendered unless he or she:~~

~~[(a)] 1. Is legally employed by the board of trustees of the school district or the governing body of the charter school in which he or she is teaching or performing other educational functions.~~

~~[(b)] 2. Has a license authorizing him or her to teach or perform other educational functions at the level and, except as otherwise provided in NRS 391.125, in the field for which he or she is employed, issued in accordance with law and in full force at the time the services are rendered.~~

~~[2. The provisions of subsection 1 do not prohibit the payment of public money to teachers or other employees who are employed by a charter school for whom a license is not required pursuant to the provisions of NRS 386.590.]] (Deleted by amendment.)~~

Sec. 23. ~~[NRS 391.235 is hereby amended to read as follows:~~

~~391.235 1. The board of trustees of each school district [may] shall adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. If the board of trustees adopts such a policy, the policy must require each administrator employed by the school district at the district level to:~~

~~(a) If the administrator holds a license to teach [,] and otherwise meets the qualifications required by subsection 3 of NRS 391.100, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or~~

~~(b) If the administrator does not hold a license to teach:~~

~~(1) Personally observe a classroom for at least one half of a regularly scheduled full instructional day in each school year; or~~

~~(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in~~

~~the classroom, reading to pupils in elementary school and participating in career day.~~

~~2. If the board of trustees of a school district adopts a policy pursuant to subsection 1, a district level administrator may choose a school within the school district at which the administrator will carry out the provisions of this section.~~

~~3. If the board of trustees of a school district adopts a policy pursuant to subsection 1, an administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which the administrator carries out the provisions of this section.~~

~~4. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.~~

~~5. As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.] (Deleted by amendment.)~~

Sec. 24. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. The policy must set forth a means according to which an employee's overall performance is determined to be highly effective, effective, minimally effective or ineffective. Except as otherwise provided in subsection 9 ~~5, 8, 7~~ *or 10*, 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 during each school year of his or her probationary employment. Each evaluation must include at least one scheduled observation of the teacher during the school year as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

5. If a postprobationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary teacher must be evaluated three times in the immediately succeeding school year in accordance with the observation schedule set forth in subsection 4. If a postprobationary teacher is evaluated three times in a school year and he or she receives an evaluation designating his or her overall performance as minimally effective or ineffective on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

6. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective, the postprobationary teacher must be evaluated one time in the immediately succeeding school year. The evaluation must include at least two scheduled observations as follows:

(a) The first scheduled observation must occur within 80 days after the first day of instruction of the school year; and

(b) The second scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

~~7. #6.7~~ If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective, the postprobationary teacher must be evaluated one time in the immediately succeeding school year. The evaluation must include at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

~~8. #7.7~~ 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 ~~8.7~~ or 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 ~~8.7~~ 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 ~~9.7~~ The evaluation of a teacher at a school designated as a turnaround school pursuant to section 4.2 of this act must not include an evaluation of the performance of pupils enrolled in the school for the first and second years after the school has been designated as a turnaround school.

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. 25. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must provide for the evaluation of those administrators who provide primarily administrative services at the school level and who do not provide primarily direct instructional services to pupils, regardless of whether such an administrator is licensed as a teacher or administrator, including, without limitation, a principal and a vice principal. The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. The policy must set forth a means according to which an administrator's overall performance is determined to be highly effective, effective, minimally effective or ineffective. Except as otherwise provided in subsection 8 ~~7.7~~ or 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 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~~ ~~a school level~~ administrator pursuant to this section shall hold a conference with the administrator before and after each scheduled observation of the administrator during the school year.

3. A probationary administrator must be evaluated three times during each school year of his or her probationary employment. Each evaluation ~~for~~ ~~a probationary school level administrator~~ must include at least one scheduled observation of the probationary administrator during the school year as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

4. If a postprobationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary administrator must be evaluated three times in the immediately succeeding school year in accordance with the observation schedule set forth in subsection 3. If a postprobationary administrator is evaluated three times in a school year and he or she receives an evaluation designating his or her overall performance as minimally effective or ineffective on the first or second evaluation, or both evaluations, the postprobationary administrator may request that the third evaluation be conducted by another administrator. If a postprobationary administrator requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.

5. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective, the postprobationary administrator must be evaluated one time in the immediately succeeding school year. The evaluation ~~for a school level administrator~~ 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. ~~5.~~ 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 ~~of a school level administrator~~ must include at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

7. ~~6.~~ 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: ~~f, and as applicable.~~

(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 ~~f, 7, or 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. ~~7.~~ 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 ~~any~~ school. This subsection does not apply to a postprobationary employee who is deemed to be a probationary employee pursuant to NRS 391.3129.

9. ~~8.~~ *The evaluation of an administrator at a school designated as a turnaround school pursuant to section 4.2 of this act must not include an evaluation of the performance of pupils enrolled in the school for the first and second years after the school has been designated as a turnaround school.*

10. Each probationary administrator is subject to the provisions of NRS 391.3128 and 391.3197.

~~{10. 9.}~~ 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.

~~f 10. As used in this section, "school level administrator" means an administrator who provides primarily administrative services at the school level and does not provide primarily direct instructional services to pupils.]~~

Sec. 26. ~~[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; or~~

~~(b) Ineffective; or~~

~~[(c) Minimally effective during 1 year of the 2 year consecutive period and ineffective during the other year of the period; or]~~

~~2. If evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average,~~

~~→ [for 2 consecutive school years] upon the issuance of the evaluation, 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.] (Deleted by amendment.)~~

Sec. 27. ~~[NRS 391.3197 is hereby amended to read as follows:~~

~~391.3197 1. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.~~

~~2. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after~~

~~the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract. If a probationary employee is notified that the employee will not be reemployed, his or her employment ends on the last day of the current school year.~~

~~3. A probationary employee who:~~

~~(a) Completes a 3 year probationary period;~~

~~(b) Receives a designation of "highly effective" or "effective" on each of his or her performance evaluations for 2 consecutive school years; and~~

~~(c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period;~~

~~is entitled to be a postprobationary employee in the ensuing year of employment.~~

~~4. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3 year probationary period, [his or her employment ends on the last day of the current school year. The] the notice that the employee will not be reemployed must include a statement of the reasons for that decision.~~

~~5. A new employee who is employed as an administrator to provide primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, or a postprobationary teacher who is employed as an administrator to provide those administrative services shall be deemed to be a probationary employee for the purposes of this section and must serve a 3 year probationary period as an administrator in accordance with the provisions of this section. If:~~

~~(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and~~

~~(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed;~~

~~the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.~~

~~6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary~~

~~period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment. 7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.] (Deleted by amendment.)~~ Sec. 28. ~~[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 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, 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, 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, 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 [.] ; and~~

~~(c) Each administrator employed by a school district at the district level is evaluated using a system that takes into account the level of resources provided to the schools under the administrative supervision of the administrator.~~

~~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.] (Deleted by amendment.)~~

Sec. 29. 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). ~~[For administrators employed by a school district at the district level, the performance evaluation system must ensure that each such administrator is evaluated using a system that takes into account the level of resources provided to the schools under the administrative supervision of the administrator.]~~

(c) Except as otherwise provided in ~~subsection 9-87~~ subsections 9 and 10 of NRS 391.3125 and ~~subsection 8-77~~ subsections 8 and 9 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 ² or administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

(f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

Sec. 29.3. NRS 171.1223 is hereby amended to read as follows:

171.1223 1. Except as otherwise provided in subsection 3, in a county whose population is 100,000 or more, a peace officer with limited jurisdiction who witnesses a category A felony being committed or attempted in the officer's presence, or has reasonable cause for believing a person has committed or attempted to commit a category A felony in an area that is within the officer's jurisdiction, shall immediately notify the primary law enforcement agency in the city or county, as appropriate, where the offense or attempted offense was committed.

2. Upon arrival of an officer from the primary law enforcement agency notified pursuant to subsection 1, a peace officer with limited jurisdiction shall immediately transfer the investigation of the offense or attempted offense to the primary law enforcement agency.

3. The provisions of subsection 1 do not:

(a) Apply to an offense or attempted offense that is a misdemeanor, gross misdemeanor or felony other than a category A felony;

(b) Apply to an officer of the Nevada Highway Patrol, a member of the police department of the Nevada System of Higher Education, an agent of the Investigation Division of the Department of Public Safety or a ranger of the Division of State Parks of the State Department of Conservation and Natural Resources;

(c) Apply to a peace officer with limited jurisdiction if an interlocal agreement between the officer's employer and the primary law enforcement agency in the city or county in which a category A felony was committed or attempted authorizes the peace officer with limited jurisdiction to respond to

and investigate the felony without immediately notifying the primary law enforcement agency; or

(d) Prohibit a peace officer with limited jurisdiction from:

(1) Contacting a primary law enforcement agency for assistance with an offense that is a misdemeanor, gross misdemeanor or felony that is not a category A felony; or

(2) Responding to a category A felony until the appropriate primary law enforcement agency arrives at the location where the felony was allegedly committed or attempted, including, without limitation, taking any appropriate action to provide assistance to a victim of the felony, to apprehend the person suspected of committing or attempting to commit the felony, to secure the location where the felony was allegedly committed or attempted and to protect the life and safety of the peace officer and any other person present at that location.

4. As used in this section:

(a) "Peace officer with limited jurisdiction" means:

(1) A school police officer who is appointed or employed pursuant to subsection ~~4~~ 10 of NRS 391.100;

(2) An airport guard or police officer who is appointed pursuant to NRS 496.130;

(3) A person employed to provide police services for an airport authority created by a special act of the Legislature; and

(4) A marshal or park ranger who is part of a unit of specialized law enforcement established pursuant to NRS 280.125.

(b) "Primary law enforcement agency" means:

(1) A police department of an incorporated city;

(2) The sheriff's office of a county; or

(3) If the county is within the jurisdiction of a metropolitan police department, the metropolitan police department.

Sec. 29.7. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

(a) Salary or wage rates or other forms of direct monetary compensation.

(b) Sick leave.

(c) Vacation leave.

(d) Holidays.

(e) Other paid or nonpaid leaves of absence.

(f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) ~~[The]~~ Except as otherwise provided in subsection 6, the policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. The board of trustees of a school district in which a school is designated as a turnaround school pursuant to section 4.2 of this act or the principal of such a school, as applicable, may take any action authorized pursuant to section 4.2 of this act, including, without limitation:

- (a) Reassigning any member of the staff of such a school; or
- (b) If the staff member of another public school consents, reassigning that member of the staff of the other public school to such a school.

7. Any provision of an agreement negotiated pursuant to this chapter which differs from or conflicts in any way with the provisions of subsection 6 or imposes consequences on the board of trustees of a school district or the principal of a school for taking any action authorized pursuant to subsection 6 is unenforceable and void.

8. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~{7.}~~ 9. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 30. NRS 288.151 is hereby amended to read as follows:

288.151 ~~{H}~~ Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary:

1. Except as otherwise provided in subsections 2 ~~f~~ to 6, inclusive, if the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must ~~not~~ be based solely on the ~~seniority of the teacher or administrator and may include, without limitation, a consideration of~~ overall performance of the teacher or administrator under the statewide performance evaluation system adopted by the State Board pursuant to

NRS 391.465. When determining the manner in which to reduce the existing workforce, the board of trustees of a school district must lay off a teacher or administrator whose overall performance has been determined to be:

(a) Ineffective, before laying off a teacher or administrator whose overall performance has been determined to be minimally effective, effective or highly effective;

(b) Minimally effective, before laying off a teacher or administrator whose overall performance has been determined to be effective or highly effective; and

(c) Effective, before laying off a teacher or administrator whose overall performance has been determined to be highly effective.

2. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of the licensed educational personnel in a school district beyond that made pursuant to subsection 1 is necessary, the board of trustees must lay off a teacher or administrator whose employment record includes:

(a) A criminal record that resulted in the suspension of the teacher or administrator; or

(b) Disciplinary action that resulted in the suspension of the teacher or administrator and that was uncontested or has been finally adjudicated;

↳ before laying off a teacher or administrator whose employment record does not include such a record or disciplinary action.

3. The board of trustees shall lay off teachers or administrators whose employment records include disciplinary actions that resulted in the suspension of the teacher or administrator pursuant to subsection 2 in the order of severity of the disciplinary action, with those employees whose employment record includes more severe disciplinary action being laid off first.

4. Except as otherwise provided in subsection 6, if the board of trustees of a school district determines that a further reduction in the existing workforce of licensed educational personnel beyond that made pursuant to subsection 2 is necessary, the decision to lay off a teacher or administrator must be based on the following factors:

{1.} (a) Whether the teacher or administrator is employed in a position which is hard to fill;

{2.} (b) Whether the teacher or administrator has received a national board certification;

{3.} (c) ~~The performance evaluations of the teacher or administrator;~~

~~4. (d) The disciplinary record of the teacher or administrator within the school district;~~

~~5. (e) The criminal record of the teacher or administrator, if any;~~

~~6. (f) The type of licensure held by the teacher or administrator; and~~

~~[7. (g)]~~ (d) The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.

~~[2.]~~ 5. If, after consideration of the factors described in ~~[subsection]~~ ~~subsections 1~~ ~~[.]~~ to 4, inclusive, two or more teachers or administrators are similarly situated, the board of trustees of the school district may give preference to the more senior teacher or administrator.

6. The board of trustees of a school district is not required to take the actions described in subsections 1 to 4, inclusive, with regard to a teacher who teaches in a school in the district in a subject area for which there is a shortage of teachers, which may include, without limitation, science, technology, engineering, mathematics, special education and English as a second language.

Sec. 30.5. NRS 289.190 is hereby amended to read as follows:

289.190 1. A person employed or appointed to serve as a school police officer pursuant to subsection ~~[8.]~~ 10 of NRS 391.100 has the powers of a peace officer. A school police officer shall perform the officer's duties in compliance with the provisions of NRS 171.1223.

2. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intents and purposes of NRS 393.071 to 393.0719, inclusive.

3. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.

Sec. 31. The amendatory provisions of this act:

1. ~~[Do not affect the validity of any conditional, provisional or special qualifications license issued before July 1, 2015, and in effect on that date. Such a license remains valid and effective for all purposes until the date on which it otherwise expires.]~~

~~2. Insofar as they conflict with the provisions of such a contract, do]~~
Apply to any contract of employment entered into on or after July 1, 2015, and any provision of such an agreement that is in conflict is void.

2. Do not apply to any contract of employment entered into before July 1, 2015, and in effect on that date, but do apply to any extension or renewal of such a contract and to any contract of employment entered into on or after July 1, 2015.

3. ~~[Insofar as they conflict with the provisions of such an agreement, do]~~
Do not apply during the current term of any collective bargaining agreement

entered into before July 1, 2015, and in effect on that date, but do apply to any extension or renewal of such an agreement and to any such agreement entered into on or after July 1, 2015.

Sec. 32. ~~[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.]~~
(Deleted by amendment.)

Sec. 32.5. 1. During the 2015-2017 biennium, the Legislative Counsel shall cause the provisions of title 34 of NRS to be reorganized to improve the orderly and logical arrangement of the provisions of that title so that they are easier to use and understand. In doing so, the Legislative Counsel may make any necessary conforming changes to carry out the laws, remove any unnecessary or duplicative provisions from existing law and exercise any other powers conferred by NRS 220.120.

2. During the 2017 Legislative Session, the Legislative Counsel shall present a bill to the Legislature which includes any provisions of title 34 of NRS that are revised during the reorganization of title 34 of NRS which the Legislative Counsel determines appropriate for ratification by the Legislature.

Sec. 33. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment deletes substantial portions of the original bill. The revised bill: requires the State Board to establish by regulation the criteria for designating a school as underperforming, and prescribes procedures for the management of such a school; addresses the transfer of ineffective or minimally effective personnel from an underperforming school; requires the creation of incentives for employees working in an such a school, which may include incentives related to pay, scheduling, training or promotion; ensures the evaluation of personnel at a newly-designated underperforming school shall not be adversely impacted by student achievement data for two years after the designation; prescribes a process for principals or school boards to reassign staff to or from an underperforming school; requires that reduction-in-force decisions be based upon employee performance, and that further reductions consider other factors before seniority.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 266.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 1036.

SUMMARY—Revises provisions relating to the tax on live entertainment. (BDR 32-720)

AN ACT relating to taxation; revising provisions relating to the rate, imposition and calculation of the tax on live entertainment; ~~for facilities located at licensed gaming establishments;~~ revising provisions governing the exemptions and exclusions from the tax on live entertainment; revising

provisions governing the distribution of certain proceeds of the tax on live entertainment; revising provisions governing investigations and the initiation of complaints by the State Gaming Control Board for violations relating to the tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) Under existing law, if live entertainment is provided at an establishment that is not a licensed gaming establishment or certain smaller licensed gaming establishments, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided. However, if live entertainment is provided at certain larger licensed gaming establishments, the tax is imposed whenever live entertainment is provided, regardless of whether consideration is collected for admission to the area or premises where the live entertainment is provided. (NRS 368A.060) Section ~~1.1~~ 1.5 of this bill revises these provisions to provide that, regardless of whether live entertainment is provided at a gaming establishment, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided.

Under existing law, the rate and imposition of the tax depends upon the size of the facility in which the live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility. If the live entertainment is provided at a facility with a maximum occupancy of at least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility. (NRS 368A.200) Section 3 of this bill revises the rate of the tax to provide that: (1) the rate of the tax is 9 percent of the admission charge to a facility where live entertainment is provided; and (2) the tax is not imposed on amounts paid for food, refreshments and merchandise. Sections 1.03, 1.07, 1.5, 2, 2.1, 3 and 3.2 of this bill provides that the tax applies to escorts and escort services and that the rate of the tax is 9 percent of the total amount of consideration paid for the escort or escort service.

Under existing law, the "admission charge" on which the tax is based is defined as the total amount of consideration paid for the right or privilege to enter, or have access to, a facility where live entertainment is provided. (NRS 368A.010) Section 1.4 of this bill revises this definition to specifically include in the tax membership fees, certain service charges and any other charge that is required to be paid in connection with admission to a facility where live entertainment is provided. Section 1.4 also excludes from the tax: (1) the value of certain admissions provided to a patron on a complimentary basis; (2) a charge for access to a table, seat or lounge or for food, beverages

or merchandise that are in addition to the charge for admission to the facility; and (3) certain license and rental fees for luxury suites, boxes or other similar products at a facility with a maximum occupancy of more than 7,500 persons.

Existing law excludes certain activities from the tax on admission to facilities where live entertainment is provided. ~~[the following activities: (1) music in a restaurant, lounge or similar area if the music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen; (2) occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public; (3) performances by performers who stroll continuously throughout certain larger gaming establishments; (4) performances in certain areas of larger gaming establishments if seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables; (5) certain occasional activities, including, without limitation, dancing, which primarily serve to provide ambience to a facility; (6) music performed by musicians who move constantly through the audience if no other form of live entertainment is provided to the patrons; (7) live entertainment that is incidental to certain amusement rides; and (8) live entertainment that is provided in a restaurant or which only serves as ambience if there is no charge to the patrons for that entertainment.]~~ (NRS 368A.090, 368A.200) Sections 2 and 3 of this bill remove ~~[these]~~ certain exclusions and, thus, pursuant to section ~~[1,]~~ 1.5, these activities would be subject to the tax on live entertainment if they constitute live entertainment and consideration is collected for admission to the facility where the activity is provided. Sections 2 and 3 also add provisions that exclude the following from the tax: (1) certain uncompensated, spontaneous performances; (2) activities that do not constitute a performance, including, without limitation, go-go dancing; (3) certain marketing or promotional activities that are associated with the serving of food and beverages; (4) live entertainment provided by the Nevada Interscholastic Activities Association or by certain schools if only students or faculty provide the entertainment; (5) athletic events provided by institutions of the Nevada System of Higher Education, if students of such an institution are contestants in the event; and (6) an athletic event conducted by a professional team based in this State if that team is a participant in the event. Finally, under section 3, the exclusion from the tax for race events at a race track in this State as a part of the National Association for Stock Car Racing (NASCAR) Sprint Cup Series is modified to apply only if two NASCAR races are held at the race track.

Under existing law, live entertainment provided by certain nonprofit organizations is exempt from the tax on live entertainment. (NRS 368A.200) Section 3 provides that this exemption applies only if the number of tickets to

the live entertainment provided by the nonprofit organization which are offered for sale or other distribution to patrons is less than 7,500. Thus, under section 3, the tax on live entertainment applies to any live entertainment provided by a nonprofit organization for which 7,500 or more tickets are offered for sale or other distribution to patrons.

Existing law requires the State Gaming Control Board and the Department of Taxation to deposit all taxes, interest and penalties they receive from the tax on live entertainment in the State Treasury for credit to the State General Fund. (NRS 368A.240) Section 3.1 of this bill requires the Department of Taxation, on or before October 1 of each year, to deposit \$150,000 from the taxes, interest and penalties it receives from the tax on live entertainment, for credit to the Nevada Arts Council which is a division of the Department of Tourism and Cultural Affairs. Under section 3.1, this money is authorized for expenditure by the Nevada Arts Council as a continuing appropriation.

Existing law requires the State Gaming Control Board to make investigations and to initiate a hearing by filing a complaint with the Nevada Gaming Commission if the Board is satisfied that a person or entity which is licensed, registered, found suitable or found preliminarily suitable or which previously obtained approval for an activity for which Commission approval was required or permitted should be limited, conditioned, suspended, revoked or fined. (NRS 463.310) Section 5 of this bill similarly requires the Board to make investigations and to initiate a hearing by filing a complaint with the Commission if the Board is satisfied that such a person or entity has violated certain provisions relating to the tax on live entertainment.

Existing law also: (1) requires a licensed gaming establishment to maintain records relating to, report, pay and truthfully account for the tax on live entertainment; and (2) prohibits certain practices relating to falsifying information or books, records or accounts relating to the tax on live entertainment. (NRS 368A.160, 368A.350, 368A.360) Section 4 of this bill provides that a violation of such provisions by a licensed gaming establishment is an unsuitable method of operation and is subject to investigation and disciplinary proceedings by the Board and the Commission.

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

Section 1. Chapter 368A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.03 and 1.07 of this act.

Sec. 1.03. 1. "Escort" means a person who, for monetary consideration, in the form of a fee, commission or salary, dates, socializes, visits, consorts with or accompanies, or offers to date, socialize, visit, consort with or accompany, another or others to or about social affairs, entertainments or places of amusement or within any place of public resort or within any private quarters. The term does not include a person who advertises, or works as an employee, agent or independent contractor for a

person who advertises, that sexual conduct will be provided to a patron, or who solicits, offers to provide or provides acts of sexual conduct to a patron.

2. As used in this section, "sexual conduct" means sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

Sec. 1.07. 1. "Escort service" means a person who, for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer an escort to a patron, offers to introduce a patron to an escort, or who provides an escort to a patron. The term does not include a person who advertises that an escort will provide sexual conduct to a patron or who solicits, offers to provide or provides acts of sexual conduct to a patron.

2. As used in this section, "sexual conduct" has the meaning ascribed to it in section 1.03 of this act.

Sec. 1.3. NRS 368A.010 is hereby amended to read as follows:

368A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, and sections 1.03 and 1.07 of this act have the meanings ascribed to them in those sections.

Sec. 1.4. NRS 368A.020 is hereby amended to read as follows:

368A.020 ~~["Admission]~~

1. Except as otherwise provided in this section, "admission charge" means the total amount, expressed in terms of money, of consideration paid for the right or privilege to ~~enter or~~ have access to a facility where live entertainment is provided. ~~[The]~~

2. Except as otherwise provided in this section or NRS 368A.200 or any other specific statute, the term includes, without limitation, an entertainment fee, a cover charge, ~~a table reservation fee, or,~~ a required minimum purchase of food, ~~refreshments,~~ beverages or merchandise. ~~[,], a membership fee and a service charge or any other fee or charge that is required to be paid in exchange for admission to a facility where live entertainment is provided.~~

3. The term does not include:

(a) The value of an admission to a facility provided to a patron on a complimentary basis, unless the complimentary admission is associated with a separate purchase that is required for the patron to enter or have access to the facility; or

(b) A charge for the right or privilege of entering, or having access to, a particular portion within a facility, that is in addition to a charge described in subsection 1 or 2, including, without limitation, a charge for:

(1) Food, beverages or merchandise that is in addition to a required minimum purchase of food, beverages or merchandise as described in subsection 2; or

(2) Access to tables, seats, lounge chairs or particular areas near a swimming pool.

4. Except as otherwise provided in this subsection, the term does not include license or rental fees for luxury suites, boxes or similar products at facilities with a maximum occupancy of at least 7,500 persons. If the license or rental fee includes the admission of a certain number of patrons to a facility where a live entertainment event is provided, the admission charge is an amount equal to the lowest priced admission charge for the live entertainment event multiplied by the number of admissions to the live entertainment event included in the license or rental fee.

~~{Section 1.}~~ Sec. 1.5. NRS 368A.060 is hereby amended to read as follows:

368A.060 ~~{1.}~~ "Facility" means ~~{:~~

~~—(a) Any~~ any area or premises , indoor or outdoor, where live entertainment is provided and for which consideration is collected for the right or privilege of entering , or having access to, that area or those premises ~~.~~ ~~{if the live entertainment is provided at:~~

~~—(1) An establishment that is not a licensed gaming establishment; or~~

~~—(2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits.~~

~~—(b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.~~

~~2. "Facility" encompasses, if live entertainment is provided at a licensed gaming establishment that is licensed for:~~

~~—(a) Less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, any area or premises where the live entertainment is provided and for which consideration is collected, from one or more patrons, for the right or privilege of entering that area or those premises, even if additional consideration is collected for the right or privilege of entering a smaller venue within that area or those premises; or~~

~~—(b) At least 51 slot machines or at least 6 games, any designated area on the premises of the licensed gaming establishment within which the live entertainment is provided.]~~

Sec. 2. NRS 368A.090 is hereby amended to read as follows:

368A.090 1. "Live entertainment" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.

2. The term:

(a) Includes, without limitation, any one or more of the following activities:

(1) Music or vocals provided by one or more professional or amateur musicians or vocalists;

(2) Dancing performed by one or more professional or amateur dancers or performers ~~and~~, *including, without limitation, dancing performed by one or more persons who are nude or partially nude;*

(3) Acting or drama provided by one or more professional or amateur actors or players;

(4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

(5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph ~~{{(7)}} (3)~~ of paragraph (b);

(6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes, sportsmen or sportswomen;

(7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

(8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; ~~and~~

(9) A performance ~~[involving one or more of the activities described in this paragraph]~~ by a disc jockey who presents recorded music ~~[. For the purposes of this subparagraph, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his or her interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.]; and~~

~~(10) An escort who is escorting one or more persons at a location or locations in this State.~~

(b) ~~[Excludes,]~~ *Except as otherwise provided in subsection 3, excludes,* without limitation, any one or more of the following activities:

~~(1) [Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;~~

~~—(2) Occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;~~

~~—(3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those~~

respective limits, as long as the performers stroll continuously throughout the facility;

~~— (4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;~~

~~— (5)}~~ Television, radio, closed circuit or Internet broadcasts of live entertainment;

~~{{(6)}~~ (2) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons;

~~{{(7) and}}~~

(3) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research ~~and~~ ~~and~~

~~— (8) An occasional activity, including, without limitation, dancing, that:~~

~~— (I) Does not constitute a performance;~~

~~— (II) Is not advertised as entertainment to the public;~~

~~— (III) Primarily serves to provide ambience to the facility; and~~

~~— (IV) Is conducted by an employee whose primary job function is not that of an entertainer.];~~

(4) An activity that is an uncompensated, spontaneous performance that is not longer than 20 minutes during a 60-minute period;

(5) An activity described in subparagraphs (1) to (8) of paragraph (a) that does not constitute a performance, including, without limitation, go-go dancing; or

(6) Marketing or promotional activities, including, without limitation, dancing or singing that is for a period that does not exceed 20 minutes during a 60-minute period and that is associated with the serving of food and beverages.

3. The exclusions set forth in paragraph (b) of subsection 2 do not apply to an activity provided by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, when the number of tickets to the activity offered for sale or other distribution is 15,000 or more.

4. As used in this section, "person who is nude or partially nude" means a natural person with any of the following less than completely or opaquely covered:

(a) His or her genitals;

(b) The pubic region; or

(c) A female breast below a point immediately above the top of the areola.

Sec. 2.1. NRS 368A.110 is hereby amended to read as follows:

368A.110 "Taxpayer" means:

1. ~~[[1]]~~ Except as otherwise provided in subsection 4, if live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

2. Except as otherwise provided in ~~[subsection]~~ subsections 3 ~~[[1]]~~ and 4, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.

3. ~~[[1]]~~ Except as otherwise provided in subsection 4, if live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person who collects the taxable receipts.

4. If live entertainment that is taxable under this chapter is provided by an escort, the escort or, if the escort works as an employee, agent or independent contractor for an escort service, the owner or operator of the escort service.

Sec. 3. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided ~~[. If the live entertainment is provided at a facility with a maximum occupancy of:~~

~~—(a) Less than 7,500 persons, the] and on the charge for live entertainment provided by an escort at one or more locations in this State. The rate of the tax is ~~[[10]]~~ :~~

(a) Except as otherwise provided in paragraph (b), for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility. ~~[plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.]~~

(b) ~~[At least 7,500 persons, the rate of the tax is 5]~~ For live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State, 9 percent of the ~~[admission charge to the facility.]~~ total amount, expressed in terms of money, of consideration paid for the live entertainment provided by the escort.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section ~~[[1]]~~, only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided ~~for for service charges,~~

~~including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer]~~
are not taxable pursuant to this section.

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided are not taxable pursuant to this section. As used in this paragraph, "independent financial institution" means a financial institution that is not the taxpayer or an owner or operator of the facility where the live entertainment is provided or an affiliate of any of those persons.

3. ~~[A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.~~

~~4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.~~

~~5.] The tax imposed by this section must be added to and collected from the purchaser at the time of purchase, whether or not the admission for live entertainment is purchased for resale. Each ticket for admission to a facility where live entertainment is provided must show on its face the admission charge or the seller of the admission shall prominently display a notice disclosing the admission charge at the box office or other place where the charge is made.~~

4. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) Live entertainment that is governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only student or faculty provide the live entertainment.

(c) An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition.

(d) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS

~~(e)] , only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.~~

(e) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

~~[(d)]~~ (f) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided ~~for a facility that~~ has a maximum occupancy of less than 200 persons.

~~[(e)]~~ (g) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

~~[(f)]~~ Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

~~[(g)]~~ ~~[(f)]~~ (h) Live entertainment that is provided at a trade show.

~~[(h)]~~ (i) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

~~[(i)]~~ ~~[(g)]~~ (j) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

~~[(j)]~~ (k) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

~~[(k)]~~ (l) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

~~[(l)]~~ (m) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

~~[(m)]~~ Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.

~~[(n)]~~ ~~[(h)]~~ An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.

~~[(o)]~~ ~~[(i)]~~ Beginning July 1, 2007, race events

(n) A race scheduled at a race track in this State ~~as a part of~~ and sanctioned by the National Association for Stock Car Auto Racing ~~Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~—(p) (j) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.~~

~~—(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~

~~—6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.~~

~~—7.] , if two or more such races are held at that race track during the same calendar year.~~

~~(o) An athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition.~~

~~5. As used in this section, ["maximum"] :~~

~~(a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.~~

~~(b) "Maximum occupancy" means, in the following order of priority:~~

~~[(a)] (1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;~~

~~[(b)] (2) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or~~

~~[(c)] (3) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.~~

~~(c) "Operator" includes, without limitation, a person who operates a facility where live entertainment is provided or who presents, produces or otherwise provides live entertainment.~~

Sec. 3.1. NRS 368A.220 is hereby amended to read as follows:

368A.220 1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 15th day of each month, a report showing the amount of all taxable receipts for the preceding month or the month in which the taxable events occurred. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. ~~[The]~~ *Except as otherwise provided in this subsection, the Board and the Department shall deposit all taxes, interest and penalties ~~[it receives]~~ they receive pursuant to this chapter in the State Treasury for credit to the State General Fund. On or before October 1 of each year, the Department shall deposit \$150,000 from the taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the Nevada Arts Council created by NRS 233C.025. The amount deposited in the State Treasury for credit to the Nevada Arts Council pursuant to this subsection is hereby authorized for expenditure by the Nevada Arts Council as a continuing appropriation.*

Sec. 3.2. NRS 368A.240 is hereby amended to read as follows:

368A.240 1. If a taxpayer:

(a) Is unable to collect all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ *or charge for live entertainment provided by an escort*, which were included in the taxable receipts reported for a previous reporting period; and

(b) Has taken a deduction on his or her federal income tax return pursuant to 26 U.S.C. 166(a) for the amount which the taxpayer is unable to collect,
 ➔ the taxpayer is entitled to receive a credit for the amount of tax paid on account of that uncollected amount. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

2. If the Internal Revenue Service disallows a deduction described in paragraph (b) of subsection 1 and the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 1, the taxpayer shall include the amount of that credit in the amount of taxes reported pursuant to this chapter in the first return filed with the Board or the Department after the deduction is disallowed.

3. If a taxpayer collects all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ *or charge for live entertainment provided by an escort*, for which the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 2, the taxpayer shall include:

(a) The amount collected in the charges reported pursuant to paragraph (a) of subsection 1; and

(b) The tax payable on the amount collected in the amount of taxes reported,

↪ in the first return filed with the Board or the Department after that collection.

4. Except as otherwise provided in subsection 5, upon determining that a taxpayer has filed a return which contains one or more violations of the provisions of this section, the Board or the Department shall:

(a) For the first return of any taxpayer that contains one or more violations, issue a letter of warning to the taxpayer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported.

5. For the purposes of subsection 4, if the first violation of this section by any taxpayer was determined by the Board or the Department through an audit which covered more than one return of the taxpayer, the Board or the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 4. NRS 368A.360 is hereby amended to read as follows:

368A.360 1. Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 who willfully fails to report, pay or truthfully account for the tax is subject to the ~~revocation of~~ *investigatory or disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and may have its gaming license revoked* by the Commission.

2. *A violation of any provision of this chapter, or any regulation adopted pursuant thereto, by a licensed gaming establishment is:*

(a) An unsuitable method of operation; and

(b) Subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

Sec. 4.1. NRS 463.15995 is hereby amended to read as follows:

463.15995 1. The Commission shall, with the advice and assistance of the Board, adopt regulations authorizing a gaming licensee to charge a fee for admission to an area in which gaming is conducted in accordance with the provisions of this section.

2. The regulations adopted by the Commission pursuant to this section must include, without limitation, provisions that:

(a) A gaming licensee may not charge a fee pursuant to this section unless:

(1) The Chair of the Board grants administrative approval of a request by a gaming licensee to charge such a fee; and

(2) Such administrative approval is not revoked or suspended by the Chair of the Board.

(b) The Chair of the Board may, in the Chair's sole and absolute discretion, grant, deny, limit, condition, restrict, revoke or suspend any administrative approval of a request by a gaming licensee to charge a fee pursuant to this section. In considering such a request, the Chair of the Board shall consider all relevant factors, including, without limitation:

- (1) The size of the area;
- (2) The amount of gaming that occurs within the area;
- (3) The types and quantity of gaming offered;
- (4) The business purpose of the area;
- (5) Other amenities that are offered within the area;
- (6) The amount of the costs and expenses incurred in creating the area;
- (7) The benefit to the State in having gaming conducted within the area;
- (8) The amount of the fee charged and whether the fee charged is unreasonable as compared to the prevailing practice within the industry; and
- (9) Whether the area should more appropriately be treated as a gaming salon.

➡ The decision of the Chair of the Board regarding such a request may be appealed by the gaming licensee to the Commission pursuant to its regulations.

(c) A gaming licensee who charges a fee pursuant to this section:

(1) Shall deposit with the Board and thereafter maintain a refundable revolving fund in an amount determined by the Commission to pay the expenses of admission of agents of the Board or Commission to the area for which a fee for admission is charged.

(2) Shall arrange for access by agents of the Board or Commission to the area for which a fee for admission is charged.

(3) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a nonrestricted license has been issued, provide for the public at least the same number of gaming devices and games in a different area for which no fee is charged for admission.

(4) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a restricted license has been issued, post a sign of a suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons that they do not need to pay an admission fee or cover charge to engage in gaming.

(5) Shall not use a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a nongaming activity, attraction or facility.

(6) Shall not restrict admission to the area for which a fee for admission is charged to a patron on the ground of race, color, religion, national origin or disability of the patron, and any unresolved dispute with a patron concerning restriction of admission shall be deemed a dispute as to the manner in which

a game is conducted pursuant to NRS 463.362 and must be resolved pursuant to NRS 463.362 to 463.366, inclusive.

(d) If a gaming licensee who holds a non-restricted license charges a fee pursuant to this section, unless the area for which a fee for admission is charged is otherwise subject to the excise tax on admission to any facility in this State where live entertainment is provided pursuant to chapter 368A of NRS, the determination of the amount of the liability of the gaming licensee for that tax:

- (1) Includes the fees charged for admission pursuant to this section; and
- (2) Does not include charges for food, ~~refreshments~~, beverages and merchandise collected in the area for which admission is charged.

Sec. 5. NRS 463.310 is hereby amended to read as follows:

463.310 1. The Board shall make appropriate investigations:

(a) To determine whether there has been any violation of this chapter or chapter 368A, 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.

(b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.

(c) To aid in adopting regulations.

(d) To secure information as a basis for recommending legislation relating to this chapter or chapter 368A, 462, 464, 465 or 466 of NRS.

(e) As directed by the Commission.

2. If, after any investigation the Board is satisfied that:

(a) A license, registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the provisions of this chapter or chapter 462, 464 or 466 of NRS should be limited, conditioned, suspended or revoked; or

(b) A person or entity which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS should be fined,

➡ the Board shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

3. Upon receipt of the complaint of the Board, the Commission shall review the complaint and all matter presented in support thereof, and shall conduct further proceedings in accordance with NRS 463.3125 to 463.3145, inclusive.

4. After the provisions of subsections 1, 2 and 3 have been complied with, the Commission may:

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

(b) Limit, condition, suspend or revoke any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license, or prior approval given or granted to any applicant by the Commission;

(c) Order a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay the licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment; and

(d) Fine each person or entity, or both, which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

(1) Not less than \$25,000 and not more than \$250,000 for each separate violation of any regulation adopted pursuant to NRS 463.125 which is the subject of an initial or subsequent complaint; or

(2) Except as otherwise provided in subparagraph (1), not more than \$100,000 for each separate violation of the provisions of this chapter or chapter 368A, 464 or 465 of NRS or of ~~the~~ any regulations ~~of the Commission~~ adopted thereunder, which is the subject of an initial complaint and not more than \$250,000 for each separate violation of the provisions of this chapter or chapter 368A, 464 or 465 of NRS or of ~~the~~ any regulations ~~of the Commission~~ adopted thereunder, which is the subject of any subsequent complaint.

➡ All fines must be paid to the State Treasurer for deposit in the State General Fund.

5. For the second violation of any provision of chapter 465 of NRS by any licensed gaming establishment or individual licensee, the Commission shall revoke the license of the establishment or person.

6. If the Commission limits, conditions, suspends or revokes any license or imposes a fine, or limits, conditions, suspends or revokes any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval, it shall issue its written order therefor after causing to be prepared and filed its written decision upon which the order is based.

7. Any such limitation, condition, revocation, suspension or fine so made is effective until reversed upon judicial review, except that the Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Commission may be had in accordance with NRS 463.315 to 463.318, inclusive.

Sec. 6. Any administrative regulations relating to the tax on live entertainment imposed pursuant to chapter 368A of NRS which were adopted by the Nevada Tax Commission or the Nevada Gaming Commission before July 1, 2015, and which conflict or are inconsistent with the provisions of this act are void, unless those regulations are amended before July 1, 2015, to be consistent with the provisions of this act.

Sec. 6.5. The provisions of this act apply only to taxable receipts that are collected pursuant to the provisions of chapter 368A of NRS on or after October 1, 2015.

Sec. 7. 1. This act becomes effective ~~1.~~

~~1. Upon~~ 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 ~~1. and~~

2. ~~On~~ Section 3.1 of this act becomes effective on July 1, 2015, for all other purposes.

3. Sections 1 to 3, inclusive, and 3.2 to 6.5, inclusive, become effective on October 1, 2015, for all other purposes.

Senator Lipparelli moved the adoption of the amendment.

Remarks by Senator Lipparelli.

Amendment No. 1036 to Senate Bill No. 266 revises the definition of "facility" for the purposes of the Live Entertainment Tax and establishes that the tax, with certain exceptions, is based on an admission charge being paid for the right or privilege to enter or have access to either indoor or outdoor facilities where live entertainment is provided.

This amendment establishes provisions requiring the Live Entertainment Tax to be imposed on escort services, certain nude dancing, performances by disc jockeys and certain live entertainment provided at a facility with a maximum occupancy of 15,000 or more.

The current Live Entertainment Tax rates of 10 percent or 5 percent based on the 7,500 seat threshold are deleted and replaced by a single rate of 9 percent of the admission charge to the facility where live entertainment is provided. Provisions requiring the tax to be imposed on food, refreshments and merchandise are also deleted. For live entertainment provided by an escort, the 9 percent rate applies to the total amount for the live entertainment provided by the escort.

The amendment reinstates various provisions of current law regarding certain exemptions to the Live Entertainment Tax; clarifies that the tax does not apply to any facility with a maximum occupancy of less than 200; live entertainment provided by certain nonprofit organizations, only if the number of tickets offered for sale or distribution to the live entertainment is less than 7,500; live entertainment that is governed by the Nevada Interscholastic Activities Association or is sponsored by an elementary, junior high, middle or high school if only students or faculty provide the live entertainment; athletic events conducted by a professional team based in Nevada; and certain fees retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided. The amendment also provides for an annual appropriation of \$150,000 to the Nevada Arts Council.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1034.

SUMMARY—~~[Exempts certain offers or sales of securities from registration requirements for securities.] Prohibits certain acts relating to the obstruction of property and roadways. (BDR [7-700] 3-700)~~

AN ACT relating to ~~{securities; providing for an exemption from the requirement to register for certain offerings for the sale of securities made through certain Internet websites; establishing certain requirements relating to an issuer of a security who qualifies for such an exemption; providing for the registration of certain operators of Internet websites who post offerings for the sale of securities not required to be registered;}~~ unlawful acts; prohibiting a person from obstructing certain property or roadways; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law sets forth requirements for the registration of a security with the Securities Division of the Office of the Secretary of State before an offer to sell or a sale of such a security is made unless certain exceptions apply. (NRS 90.460-90.510) Existing law further provides for an exemption of certain securities from the registration requirement and sets forth the filing requirements necessary to qualify for the exemption. (NRS 90.520-90.565)~~

~~—Section 3 of this bill provides an additional exemption from the registration requirement for securities for an offer to sell or sale of a security offered by an issuer through an Internet website, commonly known as a "crowdfunding" website, if certain filing and disclosure requirements are met. Section 3 requires that to qualify for this exemption, the issuer of the security and the Internet website conducting the offer of the security must be business entities organized and existing in Nevada. Section 3 also requires that any purchaser of such a security be a resident of, or a business entity organized and existing in, Nevada. The amount of the offer made pursuant to the exemption provided for in section 3 is limited to \$1,000,000 in any consecutive 12 month period. The exemption also limits an investor's purchase to \$5,000, unless the purchaser is an accredited investor. Section 3 further requires a depository institution to hold all investor funds in an escrow account until the issuer's crowdfunding goal is met. Section 3 also requires the Administrator of the Division to adopt regulations to carry out the implementation of the new registration exemption.~~

~~—Section 4 of this bill requires such an Internet website to register with the Division before conducting any offer or sale of a security for an issuer pursuant to the exemption provided for in section 3. Section 4 also provides for certain registration exemptions for a crowdfunding Internet website if certain registration requirements are met with the Securities and Exchange Commission.] This bill: (1) prohibits a person from intentionally obstructing certain property or roadways; and (2) prescribes certain civil remedies for persons aggrieved by such conduct.~~

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

Delete existing sections 1 through 7 of this bill and replace with the following new sections 1 and 2:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not intentionally obstruct:

(a) The ingress or egress to any public or private property from any other public or private place in such a manner as not to leave a free passageway for persons and vehicles lawfully seeking to enter or leave the property via the public or private place; or

(b) Any public or private roadway, including, without limitation, intersections, so as to prevent the safe passage of vehicles thereon or therethrough.

2. In addition to any other remedy, a person aggrieved by a violation of subsection 1 may bring a civil action in a court of competent jurisdiction against any person who commits the violation to seek any or all of the following relief:

(a) Declaratory and injunctive relief, including, without limitation, injunctive relief to enjoin any ongoing activity that violates any provision of subsection 1. For the purposes of injunctive relief, a person who brings an action pursuant to this subsection is entitled to a rebuttable presumption of irreparable harm.

(b) Actual damages.

(c) Reasonable attorney's fees and costs.

(d) Any other legal or equitable relief that the court deems appropriate.

3. A person who violates the provisions of this section is not subject to criminal liability.

Sec. 2. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senators Brower and Ford.

SENATOR BROWER:

This amendment to Assembly Bill No. 258 essentially deletes all provisions of the bill, and inserts new language providing that no person shall intentionally obstruct the ingress or egress of any public or private property from any other public or private place in such a way as to block persons or vehicles from entering or exiting the property.

A person who violates these provisions is not subject to criminal liability but may be the subject of a civil action seeking any or all of the following forms of relief: declaratory and injunctive relief, including enjoining any ongoing activity that violates these provisions. A person who brings such an action is entitled to a rebuttable presumption of irreparable harm, actual damages, reasonable attorney's fees and costs, and any other legal or equitable relief deemed appropriate by the court. The bill would be effective upon passage and approval.

SENATOR FORD:

I have to stand in opposition to the bill as amended. Not necessarily because it is entirely a bad idea, but because, it is ironic that we are affording certain privileges to companies, and in circumstances like this, we are giving a private right of action to a business to protect its profits but not to a young kid to protect his psyche from conversion therapy, for example. We are giving attorney's fees to companies to protect their ingress and egress, but we remove the opportunity for homeowners to recover those same attorney's fees for a defectively constructed doorway

entering into their home. Also, we are offering a presumption against an individual that presumes damages but not against a company for product liability. Those inconsistencies in legislation that have been passed throughout this Session lead me to not support this bill.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 325.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 325 adds a factor measuring the connection between the bidder and this State to the elements that must be considered when evaluating a bid submitted to the State for its purchase of any materials, supplies and equipment estimated to cost more than \$50,000. Elements that may be considered to measure the connection between a bidder and this State include, without limitation: 1) the amount of State or local taxes paid by the bidder to this State; 2) the number of offices maintained by the bidder in this State; 3) the number of persons employed by or contracted with the bidder in this State; and 4) the amount of goods and commodities used by the bidder that are produced, manufactured or supplied in this State.

This bill further requires that, when determining whether a proposal is in the best interests of the State, this factor must be given a relative weight that is greater than the relative weight given to at least one other factor.

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

Roll call on Senate Bill No. 325:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 325 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 371.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1028.

SUMMARY—Revises provisions governing the use of apprentices on public works. (BDR 53-671)

AN ACT relating to apprentices; requiring the State Apprenticeship Council to approve or deny certain written requests submitted by a public body concerning the required use of an apprentice on a public work; authorizing the Council to suspend the right of a contractor on a public work to participate in a program of apprenticeship under certain circumstances; requiring a public body that awards a contract for a public work to ensure an apprentice performs a certain percentage of the total hours of labor on the public work ~~for~~ in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the State Apprenticeship Council and requires the Council to establish standards for programs of apprenticeship. (NRS 610.030, 610.090, 610.095) The purposes of such programs include, without limitation: (1) the creation of an opportunity for persons to obtain training that will equip those persons for profitable employment and citizenship; and (2) the establishment of an organized program for the voluntary training of those persons by providing facilities for training and guidance in the arts and crafts of industry and trade. (NRS 610.020) Existing law sets forth the requirements for a public body which sponsors or finances a public work to award a contract to a contractor for the construction of the public work. (Chapter 338 of NRS) Such requirements include, without limitation: (1) the payment of the prevailing wage in the county in which the public work is located; and (2) the establishment of certain fair employment practices for contractors in connection with the performance of work under the contract awarded by the public body. Section 4 of this bill requires a public body that awards a contract for a public work for which the estimated cost exceeds \$1,000,000 to ensure that an apprentice performs not less than ~~10 percent~~ a certain percentage of the total hours of labor on the public work ~~10 percent~~, starting at 3 percent for a contract awarded in calendar year 2016 and rising to 15 percent for a contract awarded in or after calendar year 2020. Section 4 also imposes that requirement upon the Department of Transportation if the estimated cost of the contract exceeds \$2,000,000. In addition, section 4 : (1) authorizes a public body to submit, pursuant to section 1 of this bill, a request to the Council for a waiver or modification of the requirement to use an apprentice on a public work for the minimum percentage of hours 10 percent; (2) exempts from the requirement a contractor who cannot, as a result of membership in or affiliation with, or the lack thereof, a labor organization, retain the apprentices necessary to provide the required hours of labor; and (3) authorizes a contractor to submit a request to the Labor Commissioner to waive the requirement if a change in circumstances makes the completion of the public work subject to the requirement impracticable. Section 3 of this bill authorizes the Council to suspend, for not more than 1 year, the right of any contractor on a public work to participate in a program of apprenticeship if the Council determines that the contractor willfully violated the provisions of the contract concerning the use of an apprentice on the public work for the minimum percentage of hours. Section 5 of this bill expands the definition of "offense" set forth in existing law to include the failure by a contractor to ensure that an apprentice is used on a public work for the required number of hours, thereby subjecting the contractor to a possible civil action to recover damages resulting from the commission of the offense and the temporary disqualification of the contractor from an award of a contract for a public work. (NRS 338.010, 338.016, 338.017)

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

Section 1. Chapter 610 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If, pursuant to section 4 of this act, a public body submits a written request for a waiver or modification of the requirements of that section, the State Apprenticeship Council shall, within 90 days after receiving the request:*

- (a) Approve or deny the request in writing; and*
- (b) Notify the public body of the approval or denial of the request.*

2. *In approving or denying a request submitted pursuant to subsection 1, the State Apprenticeship Council shall:*

(a) Balance the purposes of programs specified in NRS 610.020 and the need for cost-effective and efficient completion of public works; and

(b) Consider:

(1) Whether a demonstrated lack of qualified apprentices exists in a specific geographic area;

(2) Whether a disproportionately high ratio of material costs to labor costs for a public work makes the minimum hours of labor required to be performed by an apprentice for the public work unfeasible; and

(3) Any other information specified by the State Apprenticeship Council.

3. *A decision by the Council pursuant to this section is subject to review by the Labor Commissioner pursuant to NRS 607.207.*

Sec. 2. NRS 610.095 is hereby amended to read as follows:

610.095 The State Apprenticeship Council shall:

1. Register and approve or reject proposed programs and standards for apprenticeship.

2. After providing notice and a hearing and for good cause shown, deny an application for approval of a program, suspend, terminate, cancel or place conditions upon any approved program, or place an approved program on probation for any violation of the provisions of this title as specified in regulations adopted by the State Apprenticeship Council.

3. *Approve or deny written requests for waivers or modifications submitted pursuant to section 1 of this act.*

Sec. 3. NRS 610.185 is hereby amended to read as follows:

610.185 The State Apprenticeship Council ~~shall~~:

1. *Shall* suspend for 1 year the right of any employer, association of employers or organization of employees acting as agent for an employer to participate in a program under the provisions of this chapter if the Nevada Equal Rights Commission, after notice and hearing, finds that the employer, association or organization has discriminated against an apprentice because of race, color, creed, sex, sexual orientation, gender identity or expression, religion, disability or national origin in violation of this chapter.

2. May suspend for not more than 1 year the right of any contractor on a public work to participate in a program pursuant to the provisions of this chapter if the State Apprenticeship Council determines that, during any period in which the labor of an apprentice is used on a public work, as required by section 4 of this act, a contractor willfully violated the terms of the contract for the public work, including, without limitation, any ratios of apprentices to journeymen, supervision, wages, and methods of work set forth in the contract. As used in this subsection, "public work" has the meaning ascribed to it in NRS 338.010.

Sec. 4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 ~~and 3,~~ to 5, inclusive, if a public body awards a contract for which the estimated cost exceeds \$1,000,000, the public body shall ensure that an apprentice performs :

(a) For a contract awarded in calendar year 2016, not less than ~~10~~ 3 percent of the total hours of labor on the public work.

(b) For a contract awarded in calendar year 2017, not less than 6 percent of the total hours of labor on the public work.

(c) For a contract awarded in calendar year 2018, not less than 9 percent of the total hours of labor on the public work.

(d) For a contract awarded in calendar year 2019, not less than 12 percent of the total hours of labor on the public work.

(e) For a contract awarded in calendar year 2020 or any calendar year thereafter, not less than 15 percent of the total hours of labor on the public work.

2. Except as otherwise provided in ~~subsection~~ subsections 3, 4 and 5, if the Department of Transportation awards a contract for which the estimated cost exceeds \$2,000,000, the Department shall ensure that an apprentice performs :

(a) For a contract awarded in calendar year 2016, not less than ~~10~~ 3 percent of the total hours of labor on the public work.

(b) For a contract awarded in calendar year 2017, not less than 6 percent of the total hours of labor on the public work.

(c) For a contract awarded in calendar year 2018, not less than 9 percent of the total hours of labor on the public work.

(d) For a contract awarded in calendar year 2019, not less than 12 percent of the total hours of labor on the public work.

(e) For a contract awarded in calendar year 2020 or any calendar year thereafter, not less than 15 percent of the total hours of labor on the public work.

3. A public body may, pursuant to section 1 of this act, submit a written request to the State Apprenticeship Council for a waiver or modification of the requirements of subsection 1 or 2, as applicable. If a public body submits such a request, the public body shall not request bids for or enter into a

contract for which the public body submitted the request until the State Apprenticeship Council approves or denies the request pursuant to section 1 of this act.

4. ~~Each~~ The provisions of subsections 1 and 2 do not apply to a contractor engaged on a public work who cannot retain the apprentices necessary to meet the requirements of subsection 1 or 2, as applicable, as a result of membership in or affiliation with any labor organization or the lack of such membership or affiliation.

5. Except as otherwise provided in this subsection, each contractor engaged on a public work requiring the use of apprentices pursuant to this section shall ensure that an apprentice is used on the public work for at least the minimum percentage of hours of labor required for the public work. A contractor may submit a written request to the Labor Commissioner to waive the requirements of this section if a change in circumstances makes the completion of the public work using the apprentices required pursuant to this section impracticable. The Labor Commissioner may, for good cause shown, grant a request submitted pursuant to this subsection.

~~5.1~~ 6. As used in this section, "apprentice" has the meaning ascribed to it in NRS 610.010.

Sec. 5. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Division" means the State Public Works Division of the Department of Administration.

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

10. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

11. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

12. "Horizontal construction" means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or

other building of an airport or airway, or the construction of any other building.

13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

14. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; ~~or~~
- (d) Comply with subsection 5 or 6 of NRS 338.070 ~~[-]~~; *or*
- (e) *Ensure that an apprentice is used on a public work for the minimum amount of hours of labor required pursuant to section 4 of this act.*

15. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➡ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

16. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

17. "Public work" means any project for the new construction, repair or reconstruction of:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities;

- (7) Publicly owned water mains and sewers;
- (8) Public parks and playgrounds;
- (9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

18. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

19. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➡ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

20. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➡ for the provision of labor, materials, equipment or supplies for a construction project.

21. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

22. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

23. "Vertical construction" means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.

24. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

25. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 6. NRS 338.015 is hereby amended to read as follows:

338.015 1. The Labor Commissioner shall enforce the provisions of NRS 338.010 to 338.130, inclusive ~~[]~~, *and section 4 of this act*.

2. In addition to any other remedy or penalty provided in this chapter, if any person, including, without limitation, a public body, violates any provision of NRS 338.010 to 338.130, inclusive, *and section 4 of this act* or any regulation adopted pursuant thereto, the Labor Commissioner may, after providing the person with notice and an opportunity for a hearing, impose against the person an administrative penalty of not more than \$5,000 for each such violation.

3. The Labor Commissioner may, by regulation, establish a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this section.

4. The Labor Commissioner shall report the violation to the Attorney General, and the Attorney General may prosecute the person in accordance with law.

Sec. 7. The amendatory provisions of this act do not apply to a contract for a public work that is awarded before ~~[July]~~ January 1, ~~[2015-]~~ 2016.

Sec. 8. This act becomes effective on ~~[July]~~ January 1, ~~[2015-]~~ 2016.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

This amendment makes a couple primary changes. First, it creates a graduated schedule for increasing the required percentage of apprentices required to be used on public works projects. Secondly, it exempts from this requirement certain companies that do not have access to apprentices for a couple of important reasons.

Amendment adopted.

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

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

Senate in recess at 11:35 a.m.

SENATE IN SESSION

At 12:09 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Brower moved that Senate Bill No. 512 be taken from the General File and placed on the General File on the fourth Agenda.

Motion carried.

Senator Lipparelli moved that Senate Bill No. 266 be taken from the General File and placed on the General File on the fourth Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 371.

Bill read third time.

Remarks by Senators Kieckhefer, Atkinson and Spearman.

SENATOR KIECKHEFER:

Senate Bill No. 371 requires a public body that awards a contract for a public work that is estimated to exceed \$1 million to ensure that an apprentice performs a required percent of the total hours of labor on the public work if sufficient apprentices are available for such work. This requirement is imposed upon the Department of Transportation if the estimated cost of the contract exceeds \$2 million. A public body may request a waiver or modification of this requirement from the State Apprenticeship Council. The Council must, within 90 days after receiving the request, approve or deny the request in writing.

In addition, the Council is authorized to suspend, for not more than one year, a contractor's right on a public work to participate in an apprenticeship program if the Council determines the contractor willfully violated the provisions of the contract concerning the use of an apprentice for the minimum percentage of hours.

Finally, the measure expands the definition of "offense" in existing law to include the failure by a contractor to ensure that an apprentice is used on a public work for the required number of hours.

SENATOR ATKINSON:

I rise in support of this bill that I sponsored. I wanted to thank the Chair of Finance, the Majority Leader and everyone else who played a role in the last few days here to try to get this out. There was a lot of work done to try to appease quite a few different people. I wanted to say thanks to the people who came to the table. This is what we call one of our southern Nevada priorities. It puts folks to work.

As everyone knows the construction industry, I think we all believe is on the rebound, it is coming back in our State. However, at the same time it is coming back, some of our older workers are phasing out, retiring, moving on. This bill creates an opportunity for us to not only put folks to work, it also provides the opportunity for us to put folks out to work and giving them training in skilled trades and opportunities to learn while they are trying to acquire these skills to do these highly skilled jobs. I wanted to say thanks again; thanks for the opportunity. I promised to read a statement on behalf of the Airport Authority, Reno: "It is to the extent that the provisions of this bill aren't consistent with federal statutes or regulations supporting such Public Works projects than the requirements of this bill will be preempted." I needed to put this on the record so that the airport does not feel like they are in any way going to be harmed with this bill. Once again, I thank my colleagues and urge your support.

SENATOR SPEARMAN:

I rise in support of this bill as well. Not only for what it will do for the civilian community but I believe that it will be a game changer for many of our veterans who are coming home and cannot find work.

Roll call on Senate Bill No. 371:

YEAS—20.

NAYS—None.

EXCUSED—Segerblom.

Senate Bill No. 371 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 258.

Bill read third time.

Remarks by Senator Brower.

To our colleague who also spoke to the bill when it was on second reading, I want to make sure everyone understands that this bill and the private right of action it creates would apply to all persons, not just businesses but any private property owner who finds his property being blocked by another wrongfully. This does not apply to only businesses. It applies to all persons in our State.

Roll call on Assembly Bill No. 258:

YEAS—13.

NAYS—Atkinson, Ford, Kihuen, Parks, Smith, Spearman, Woodhouse—7.

EXCUSED—Segerblom.

Assembly Bill No. 258 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 247.

The following Assembly amendment was read:

Amendment No. 783.

SUMMARY—Revises provisions governing new construction by or on behalf of health facilities. (BDR 40-981)

AN ACT relating to public health; providing for the expenditure of certain application fees; prohibiting certain expenditures for new construction by or on behalf of a health facility in certain less populated areas without the approval of the Director of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Health and Human Services to collect an application fee from persons who apply for approval of certain projects and services. (NRS 439A.081) Section 1 of this bill provides for the deposit of those fees and requires those fees to be used to administer the state administrative program relating to health planning and development. Section 1 also provides that the fees revert to the State General Fund if the money received from the fees collected is not spent 2 fiscal years after the fees were originally paid.

Existing law prohibits a person from spending more than \$2,000,000 or an amount specified by the Department for new construction by or on behalf of a health facility in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) without the approval of the Director of the Department. This requirement does not apply to construction for purposes unrelated to the provision of health services, renovation and maintenance, a project approved by the Legislature or the construction of a hospital in certain large unincorporated towns that do not already have a hospital. (NRS 439A.100) A person who violates this prohibition is subject to a civil penalty and the rejection of an application for a license to operate a medical facility or the suspension or revocation of such a license. (NRS 439A.310, 449.080, 449.087, 449.089, 449.160) Section 2 of this bill ~~[deletes the restriction concerning counties whose population is less than 100,000 and]~~ also prohibits any such expenditure, without the approval of the Director, for new construction by or on behalf of a health facility ~~[unless the construction]~~ that will occur in an incorporated city or unincorporated town whose population is ~~[60,000 or more (currently the Cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks) or meets one of the other currently listed exceptions. Section 2 also deletes the exception from this requirement for the construction of a hospital in certain large unincorporated towns that do not have a hospital.]~~ less than 25,000 that is located in a county whose population is 100,000 or more. Finally, section 2 requires the Director to consider certain criteria when deciding whether to approve a project.

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

Section 1. NRS 439A.081 is hereby amended to read as follows:

439A.081 1. The Department is the agency of the State of Nevada for health planning and development, and shall carry out the state administrative program and perform the functions of health planning and development for the State in accordance with the following priorities:

- (a) Providing for the effective use of methods for controlling increases in the cost of health care;
- (b) Providing for the adequate supply and distribution of health resources;
- (c) Providing for equal access to health care of good quality at a reasonable cost; and
- (d) Providing education to the public regarding proper personal health care and methods for the effective use of available health services.

2. In order to carry out the provisions of this chapter, the Director may:

- (a) Delegate the duties of the Director and the Department pursuant to this chapter to any of the divisions of the Department;
- (b) Hire employees in the classified service;
- (c) Adopt such regulations as are necessary; and

(d) Apply for, accept and disburse money granted by the Federal Government for the purposes of health planning and development.

3. The Department may, by regulation, fix fees to be collected from applicants seeking approval of proposed health facilities or services. The amounts of such fees must be based upon the Department's costs of examining and acting upon the applications.

4. *Any application fees collected pursuant to subsection 3 are not refundable and must be deposited in the State Treasury and accounted for separately in the State General Fund. Any interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of a fiscal year does not revert to the State General Fund and the balance in the account must be carried forward to the next fiscal year. Any money remaining in the account that is not committed for expenditure after 2 fiscal years following the date on which the money is paid as a fee reverts to the State General Fund. All claims against the account must be paid as other claims against the State are paid. The money in the account must be used to pay the costs of administering the state administrative program.*

5. In developing and revising any state plan for health planning and development, the Department shall consider, among other things, the amount of money available from the Federal Government for health planning and development and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for health planning and development.

Sec. 2. NRS 439A.100 is hereby amended to read as follows:

439A.100 1. Except as otherwise provided in this section, in a county whose population is less than 100,000, or in an incorporated city or unincorporated town whose population is less than 25,000 that is located in a county whose population is 100,000 or more, no person may undertake any proposed expenditure for new construction by or on behalf of a health facility in excess of the greater of \$2,000,000 or such an amount as the Department may specify by regulation, which under generally accepted accounting principles consistently applied is a capital expenditure, without first applying for and obtaining the written approval of the Director. The Division of Public and Behavioral Health of the Department shall not issue a new license or alter an existing license for such a project unless the Director has issued such an approval.

2. The provisions of subsection 1 do not apply to:

(a) Any capital expenditure for:

- (1) The acquisition of land;
- (2) The construction of a facility for parking;
- (3) The maintenance of a health facility;
- (4) The renovation of a health facility to comply with standards for safety, licensure, certification or accreditation;

- (5) The installation of a system to conserve energy;
- (6) The installation of a system for data processing or communication;

or

(7) Any other project which, in the opinion of the Director, does not relate directly to the provision of any health service;

(b) Any project for the development of a health facility that has received legislative approval and authorization; or

(c) A project for the construction of a hospital in an unincorporated town if:

(1) The population of the unincorporated town is more than 24,000;

(2) No other hospital exists in the town;

(3) No other hospital has been approved for construction or qualified for an exemption from approval for construction in the town pursuant to this section; and

(4) The unincorporated town is at least a 45-minute drive from the nearest center for the treatment of trauma that is licensed by the Division of Public and Behavioral Health of the Department. ~~Any proposed expenditure for new construction by or on behalf of a health facility that will occur in an incorporated city or unincorporated town whose population is 60,000 or more.~~

➔ Upon determining that a project satisfies the requirements for an exemption pursuant to this subsection, the Director shall issue a certificate which states that the project is exempt from the requirements of this section.

3. In reviewing an application for approval, the Director shall:

(a) Comparatively assess applications for similar projects affecting the same geographic area; and

(b) Base his or her decision on criteria established by the Director by regulation. The criteria must include:

(1) The need for and the appropriateness of the project in the area to be served;

(2) The financial feasibility of the project;

(3) The effect of the project on the cost of health care; and

(4) The extent to which the project is consistent with the purposes set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081 ~~[-]~~ , including, without limitation:

(I) *The impact of the project on other health care facilities;*

(II) *The need for any equipment that the project proposes to add, the manner in which such equipment will improve the quality of health care and any protocols provided in the project for avoiding repetitive testing;*

(III) *The impact of the project on disparate health outcomes for different populations in the area that will be served by the project;*

(IV) *The manner in which the project will expand, promote or enhance the capacity to provide primary health care in the area that will be served by the project;*

(V) Any plan by the applicant to collect and analyze data concerning the effect of the project on health care quality and patient outcomes in the area served by the project;

(VI) Any plan by the applicant for controlling the spread of infectious diseases; and

(VII) The manner in which the applicant will coordinate with and support existing health facilities and practitioners, including, without limitation, mental health facilities, programs for the treatment and prevention of substance abuse and providers of nursing services, ~~as defined in NRS 449.0153.~~

4. The Department may by regulation require additional approval for a proposed change to a project which has previously been approved if the proposal would result in a change in the location of the project or a substantial increase in the cost of the project.

5. The decision of the Director is a final decision for the purposes of judicial review.

6. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.

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

Senator Hardy moved that the Senate concur in Assembly Amendment No. 783 to Senate Bill No. 247.

Remarks by Senator Hardy.

This deals with certificate of need. As much as we are all aware that rural hospitals have challenges keeping their act afloat, we have tried to protect them in this bill so that the hospitals that are affected are in favor of this.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 111, 416, 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BEN KIECKHEFER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 474, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

GREG BROWER, *Chair*

Mr. President:

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of Amendment No. 1030 to Senate Bill No. 416.

JAMES A. SETTELMAYER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Brower moved that Assembly Bill No. 474, just reported out of Committee, be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 416.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1029.

SUMMARY—Makes various changes regarding the use of decommissioned power plant sites. (BDR 58-236)

AN ACT relating to ~~public~~ utilities; requiring an electric utility to identify certain nonproductive assets as surplus; authorizing the Public Utilities Commission of Nevada to classify certain nonproductive electric utility assets as surplus; requiring an electric utility to create a timely plan for the decommissioning and disposal of surplus assets ~~and providing that such assets not disposed of in a timely manner shall be removed from the responsibility of the utility's customers;~~ and carry out such a plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a public utility to recover the operational costs of all assets from its customers through the payment of rates for utility services. (NRS 704.110) Section 10 of this bill requires ~~all~~ any electric ~~utilities~~ utility which owns certain generation assets in this State to provide the Public Utilities Commission of Nevada with a list of certain assets and to identify those assets which are not being used or reasonably planned for future use in generating electricity as surplus. Section 11 of this bill authorizes the Commission to identify certain nonproductive assets of an electric utility as not reasonably held for future use in generating electricity as surplus. Section 12 of this bill requires an electric utility to create ~~and execute~~ a plan for the timely cleanup and disposal of surplus assets. Section 13 of this bill ~~provides that those assets not disposed of in a timely manner pursuant to such a plan will be removed from the responsibility of the utility's customers. Section 12 provides that the reasonable costs of decommissioning and disposing of surplus assets may be charged to the utility's customers.~~ requires the utility to carry out such a plan. Section 15 of this bill authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to oversee the decommissioning of surplus electric utility assets. Section 17 of this bill requires the Governor's Office of Economic Development to assist an electric utility with the marketing of vacant or decommissioned assets for sale and redevelopment.

Existing law requires a person who wishes to construct a utility facility in this State to obtain a permit from the Public Utilities Commission of Nevada. (NRS 704.865) Section 16.3 of this bill requires an applicant for such a permit to submit a surplus asset retirement plan for the decommissioning, removal, remediation and disposition of the utility facility to be followed upon the retirement of the utility facility. Section 16.7 of this bill requires the Commission to make certain findings and determinations concerning the surplus asset retirement plan before granting such a permit.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Asset" has the meaning ascribed to the term "generation asset" in NRS 704.7575 which contains ~~100~~ 50 or more contiguous acres, and of which all real and personal property, including, without limitation, land, structures, equipment ~~f, associated~~ and transmission lines and switching stations ~~that~~ directly associated with the generation asset, are located wholly or partially within this State.*

Sec. 4. *"Decommissioned" means a surplus asset on which all operations have ceased and which has been cleared and environmentally remediated as necessary and which is ready for sale or disposal.*

Sec. 5. *"Electric utility" means any public utility that is in the business, on lands within this State, as sole owner or co-owner ~~f, and by means of electric power generation, transmission, distribution,~~ of an asset that provides sales or service ~~f, of electricity to customers within or outside of this state . f, and in the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year or the calendar year in which operations were ceased, had a gross operating revenue of \$250,000,000 or more in this State. The term includes an electric utility as defined in NRS 704.7571.~~*

Sec. 6. *"Operational" means an asset which is actively utilized or operating at ~~for near~~ full capacity~~, or at some~~ or reduced capacity . ~~in conjunction with an emissions reduction and capacity replacement plan pursuant to NRS 704.7316 or otherwise, but not at less than 10 percent of capacity.~~*

Sec. 7. *"Post-operational reserve" means an asset which was formerly operational that is currently closed ~~and~~ or temporarily out-of-service . ~~for operating at less than 10 percent of capacity~~ and held for future energy generation.*

Sec. 8. *"Pre-operational reserve" means vacant land held for future energy generation or property in planning or under construction for future energy generation and intended for the creation of a future asset.*

Sec. 9. *"Surplus" means an asset that is out-of-service and no longer needed, suitable or reasonably intended to be used to generate electricity.*

Sec. 10. 1. Each electric utility that is required to file a plan pursuant to NRS 704.741 shall include as part of that plan a list of all assets of the electric utility.

2. Each electric utility not specified in subsection 1 which holds a permit issued pursuant to NRS 704.870 shall, on or before January 31 of each year, file with the Commission a list of all assets.

3. Each electric utility not specified in subsection 1 or 2 which owns a utility facility, as defined in NRS 704.860, that was permitted by a local authority based on an application filed before July 1, 1971, shall file with the Commission a list of all assets of the electric utility.

4. The list of assets required by subsections 1, 2 and 3 must:

~~1.1~~ (a) Include a brief description of each asset;

~~2.1~~ (b) Include the output capacity of each asset;

~~3.1~~ (c) Classify each asset as operational, pre-operational reserve, post-operational reserve, surplus or decommissioned; and

~~4.1~~ (d) For each asset classified as pre-operational reserve or post-operational reserve, include a statement in a form approved by the Commission regarding the viability of the future use of the asset for energy generation.

5. Any asset with more than one owner must be included on the list of assets of each owner who is required to file a list pursuant to this section.

Sec. 11. For each asset classified by an electric utility as pre-operational reserve or post-operational reserve pursuant to :

1. Subsection 1 of section 10 of this act, the Commission may, after notice and a hearing pursuant to NRS ~~703.320~~, reclassify the asset as surplus if the Commission determines that the asset is no longer being held in the public trust and should not be considered in the determination of rate. 704.746, reclassify the asset as surplus if the Commission determines that the asset is no longer used or useful to the customers of the electric utility.

2. Subsection 2 or 3 of section 10 of this act, the Commission may, after notice and a hearing pursuant to NRS 703.320, reclassify the asset as surplus if the Commission determines that the asset is no longer utilized to produce or transmit electricity and that it is not reasonable to expect that the asset will be used to produce or transmit electricity in the future.

Sec. 12. 1. For each asset which has been classified as surplus by an electric utility pursuant to section 10 of this act or reclassified as surplus by the Commission pursuant to section 11 of this act, ~~the~~ each electric utility which owns all or part of the asset shall file a surplus asset retirement plan with the Commission within 120 days after the asset has been classified or reclassified as surplus. Such a plan is subject to the approval of the Commission.

2. A surplus asset retirement plan must include:

(a) A brief description of the asset, including without limitation, its generating capacity, its current condition and any details regarding ownership.

(b) A plan for the decommissioning of the site, including without limitation, the closure of any remaining operational activities, any required

environmental remediation, the removal and disposal of any physical assets deemed unsuitable for redevelopment and remediation, as determined by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NRS 704.7318, or, if decommissioning is underway or completed, a full description of the decommissioning program.

(c) ~~A plan for the valuation of the asset, including without limitation, an accounting value for customer and shareholder purposes, as determined by the Commission pursuant to NRS 704.440 and a market value for disposition purposes as determined by the electric utility.~~

~~(d)~~ A marketing plan for the sale of the asset, prepared in consultation with the Office of Economic Development, which must disclose any environmental issues or other restrictions and emphasize the value of the asset in its marketplace.

~~(e)~~ (d) A timeline for implementation of the plan, including without limitation, key dates for completion of benchmarks including a final sale date. To the extent reasonably possible, the timeline must indicate a final sale date that is within 30 months after commencement of the plan.

~~f 3. Reasonable costs related to the decommissioning, marketing and sale or disposal of a surplus asset may be charged to the electric utility's customers pursuant to subsection 13 of NRS 704.110.~~

Sec. 13. ~~f1. Except as otherwise provided in subsection 2, an asset must be removed from the responsibility of the electric utility's customers after the asset is sold or after the projected final sale date indicated in the surplus asset retirement plan pursuant to section 12 of this act, whichever occurs first, regardless of whether the asset has actually been sold.~~

~~2.~~ Except as otherwise provided in this section, each electric utility that owns all or part of an asset which has been classified as surplus by an electric utility pursuant to section 10 of this act or reclassified as surplus by the Commission pursuant to section 11 of this act shall carry out the surplus asset retirement plan filed pursuant to section 12 of this act. The Commission may, for good cause, extend the projected final sale date ~~included in~~ or otherwise amend the surplus asset retirement plan. ~~pursuant to section 12 of this act.~~

~~3. Any surplus asset, or portion thereof, that is deemed to have no market value or is not transferable due to environmental damage or other reasons must not be included in determining rates.~~

Sec. 14. ~~[NRS 704.110 is hereby amended to read as follows:~~

~~704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:~~

~~1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the~~

~~Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.~~

~~2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.~~

~~3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:~~

~~(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2010, and at least once every 36 months thereafter.~~

~~(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2011, and at least once every 36 months thereafter.~~

~~— (e) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.~~

~~— (d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.~~

~~— The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.~~

~~— 4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time~~

~~expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:~~

~~—(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and~~

~~—(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 2.~~

~~—5— If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.~~

~~—6— If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 10, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.~~

~~—7— A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:~~

~~—(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 10; or~~

~~—(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis pursuant to subsection 8.~~

~~—8— A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's~~

~~recorded costs of natural gas purchased for resale. A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.~~

~~9. If the Commission approves a request to make any rate adjustments on a quarterly basis pursuant to subsection 8:~~

~~(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:~~

~~(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and~~

~~(2) Must include the following:~~

~~(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;~~

~~(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;~~

~~(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;~~

~~(IV) A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and~~

~~—(V) Any other information required by the Commission.~~

~~—(e) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~—(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of natural gas included in each quarterly filing and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.~~

~~—(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.~~

~~—10. An electric utility shall adjust its rates on a quarterly basis based on changes in the electric utility's recorded costs of purchased fuel or purchased power. In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.~~

~~—11. A quarterly rate adjustment filed pursuant to subsection 10 is subject to the following requirements:~~

~~—(a) The electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on~~

~~October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~—(b) The electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:~~

~~——(1) Must be printed separately on fluorescent colored paper and must not be attached to the pages of the bill; and~~

~~——(2) Must include the following:~~

~~——(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;~~

~~——(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;~~

~~——(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;~~

~~——(IV) A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and~~

~~——(V) Any other information required by the Commission.~~

~~—(c) The electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~—(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of purchased fuel and purchased power included in each quarterly filing and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power~~

~~included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.~~

~~— (e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.~~

~~— 12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 and NRS 704.187 while a general rate application is pending, the electric utility shall:~~

~~— (a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and~~

~~— (b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.~~

~~— 13. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto, [or] the retirement or elimination of a utility facility identified in an emissions reduction and capacity replacement plan submitted pursuant to NRS 704.7316 and accepted by the Commission for retirement or elimination pursuant to NRS 704.751 and the regulations adopted pursuant thereto, or the sale or disposal of a surplus asset pursuant to section 12 of this act, shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing, or retiring or eliminating, as applicable, such a facility.~~

~~— 14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:~~

~~— (a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:~~

~~— (1) Until a date determined by the Commission; and~~

~~— (2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and~~

~~— (b) Authorize a utility to implement a reduced rate for low-income residential customers.~~

~~— 15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting~~

~~adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.~~

~~16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the public interest.~~

~~17. As used in this section:~~

~~(a) "Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt hours which have been sold in the geographical area to which the rate applies during the specified period.~~

~~(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.~~

~~(c) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.~~

~~(d) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.~~

~~(e) "Surplus" has the meaning ascribed to it in section 9 of this act.~~
(Deleted by amendment.)

Sec. 15. NRS 704.7318 is hereby amended to read as follows:

704.7318 1. To ensure the remediation and, when possible, the reuse of any site used for the production of electricity from a coal-fired electric generating plant, *natural gas electric generating plant or renewable energy facility* in this State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources has exclusive jurisdiction to supervise and regulate the remediation of such sites, including, without limitation, exclusive authority to regulate and supervise the remediation of surface water and groundwater and solid-waste disposal operations located at such a site.

2. The Division of Environmental Protection has exclusive authority to regulate emissions from any electric generating plant constructed on a site

previously used for the production of electricity from a coal-fired electric generating plant.

Sec. 15.5. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources; ~~and~~

(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity ~~and~~

~~and~~

(c) A list of the utility's assets described in section 10 of this act; and

(d) A surplus asset retirement plan as required by section 12 of this act.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.

5. As used in this section:

(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.

(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 16. NRS 704.7588 is hereby amended to read as follows:

704.7588 Except as otherwise provided in NRS 704.7311 to 704.7322, inclusive, and 704.7591 ~~and~~ *section 12 of this act:*

1. Before July 1, 2003, an electric utility shall not dispose of a generation asset.

2. On or after July 1, 2003, an electric utility shall not dispose of a generation asset unless, before the disposal, the Commission approves the

disposal by a written order issued in accordance with the provisions of this section.

3. Not sooner than January 1, 2003, an electric utility may file with the Commission an application to dispose of a generation asset on or after July 1, 2003. If an electric utility files such an application, the Commission shall not approve the application unless the Commission finds that the disposal of the generation asset will be in the public interest. The Commission shall issue a written order approving or disapproving the application. The Commission may base its approval of the application upon such terms, conditions or modifications as the Commission deems appropriate.

4. If an electric utility files an application to dispose of a generation asset, the Consumer's Advocate shall be deemed a party of record.

5. If the Commission approves an application to dispose of a generation asset before July 1, 2003, the order of the Commission approving the application:

- (a) May not become effective sooner than July 1, 2003;
- (b) Does not create any vested rights before the effective date of the order; and
- (c) For the purposes of NRS 703.373, shall be deemed a final decision on the date on which the order is issued by the Commission.

Sec. 16.3. NRS 704.870 is hereby amended to read as follows:

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

- (a) A description of the location and of the utility facility to be built thereon;
- (b) A summary of any studies which have been made of the environmental impact of the facility; ~~and~~
- (c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility ~~;~~ and

(d) A surplus asset retirement plan as described in subsection 2 of section 12 of this act for the decommissioning, removal, remediation and disposition of the utility facility after it ceases to operate, including a description of the manner in which the plan will be funded.

↪ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

- (a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility

facility, file with the Commission and each other permitting entity a notice, in such a form as the Commission or other permitting entity prescribes; and

(b) Not later than 30 days after the issuance by the appropriate federal agency of either the final environmental assessment or final environmental impact statement, but not the record of decision or similar document, relating to the construction of the utility facility:

(1) File with the Commission an application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application filed with the Commission must be filed with the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each application filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application in newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application pursuant to this section, the Commission shall issue a notice concerning the application. Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 16.7. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

(a) The nature of the probable effect on the environment;

(b) If the utility facility emits greenhouse gases and does not use renewable energy as its primary source of energy to generate electricity, the extent to which the facility is needed to ensure reliable utility service to customers in this State;

(c) That the need for the facility balances any adverse effect on the environment;

(d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;

(e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has

obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; ~~and~~

(f) That the surplus asset retirement plan filed pursuant to NRS 704.870:

(1) Complies with federal, state and local laws;

(2) Provides for the remediation and reuse of the facility within a reasonable period; and

(3) Is able to be reasonably completed under the funding plan contained in the application; and

(g) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph ~~((d))~~ (g) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 17. NRS 231.055 is hereby amended to read as follows:

231.055 Under the direction of the Executive Director, the Office:

1. Shall provide administrative and technical support to the Board.

2. Shall support the efforts of the Board, the regional development authorities designated by the Executive Director pursuant to subsection 4 of NRS 231.053 and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada.

3. Shall coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053, including, without limitation:

(a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;

(b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of businesses in Nevada or the relocation of businesses to Nevada; and

(c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives, development resources, and grants and loans of money provided by the Office.

4. *Shall, upon request, assist ~~for a public~~ an electric utility with the marketing of vacant or decommissioned assets for sale and redevelopment pursuant to section 12 of this act.*

5. May:

(a) Participate in any federal programs for economic development that are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and

(b) When practicable and authorized by federal law, act as the agency of this State to administer such federal programs.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Atkinson.

SENATOR HARDY:

This amendment allows for the decommissioning of a power plant in a timely way and disposal of surplus assets of such power plants. It provides a plan for the surplus assets, and the fiscal note has been removed. Thus, it allows, for instance, a place like Laughlin to have its power plant, which closed in 2005, to be decommissioned.

SENATOR ATKINSON:

We just considered this in Committee, but I voted no because it was 23 pages, and I had not had a chance to read it. I had a conversation with the sponsor of the amendment and with some folks interested. I wanted to let the Body know and my colleagues know that I do support the amendment so that there was no misunderstanding.

Amendment adopted.

The following amendment was proposed by Senators Hardy and Settlemeyer:

Amendment No. 1030.

SUMMARY—~~[Makes]~~ Revises certain provisions relating to the Public Utilities Commission of Nevada and makes various changes regarding the use of decommissioned power plant sites. (BDR 58-236)

AN ACT relating to ~~public~~ utilities; revising provisions relating to the financial administration and personnel of the Public Utilities Commission of Nevada; requiring an electric utility to identify certain nonproductive assets as surplus; authorizing the Public Utilities Commission of Nevada to classify certain nonproductive electric utility assets as surplus; requiring an electric utility to create a timely plan for the decommissioning and disposal of surplus assets; ~~[- providing that such assets not disposed of in a timely manner shall be removed from the responsibility of the utility's customers;]~~ and carry out such a plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a public utility to recover the operational costs of all assets from its customers through the payment of rates for utility services. (NRS 704.110) Section ~~[10]~~ 15 of this bill requires ~~that~~ any electric ~~utilities~~ utility which owns certain generation assets in this State to provide the Public Utilities Commission of Nevada with a list of certain assets and to identify those assets which are not being used or reasonably planned for future use in generating electricity as surplus. Section ~~[11]~~ 16 of this bill authorizes the

Commission to identify certain nonproductive assets of an electric utility as not reasonably held for future use in generating electricity as surplus. Section ~~[12]~~ 17 of this bill requires an electric utility to create ~~[and execute]~~ a plan for the timely cleanup and disposal of surplus assets. Section ~~[13]~~ 18 of this bill ~~[provides that those assets not disposed of in a timely manner pursuant to such a plan will be removed from the responsibility of the utility's customers. Section 12 provides that the reasonable costs of decommissioning and disposing of surplus assets may be charged to the utility's customers.]~~ requires the utility to carry out such a plan. Section ~~[15]~~ 20 of this bill authorizes the Division of Environmental Protection of the State Department of Conservation and Natural Resources to oversee the decommissioning of surplus electric utility assets. Section ~~[17]~~ 22 of this bill requires the Governor's Office of Economic Development to assist an electric utility with the marketing of vacant or decommissioned assets for sale and redevelopment.

Existing law requires a person who wishes to construct a utility facility in this State to obtain a permit from the Public Utilities Commission of Nevada. (NRS 704.865) Section 21.3 of this bill requires an applicant for such a permit to submit a surplus asset retirement plan for the decommissioning, removal, remediation and disposition of the utility facility to be followed upon the retirement of the utility facility. Section 21.7 of this bill requires the Commission to make certain findings and determinations concerning the surplus asset retirement plan before granting such a permit.

Under existing law, officers and employees of the Executive Department of the State Government are in either the classified or unclassified service, unless otherwise provided by specific statute. (NRS 284.013, 284.140, 284.150) For example, employees of the Office of the Governor are not in the classified or unclassified service. (NRS 223.085) Sections 1-5 of this bill remove all officers and employees of the Public Utilities Commission of Nevada from the classified and unclassified service and require the Commission to adopt rules and policies regarding the employment rights, salary ranges and benefits of its officers and employees. However, the officers and employees of the Commission remain eligible to participate in the Public Employees' Benefits Program and the Public Employees' Retirement System.

With certain exceptions, existing law limits the amount of the salary of a person employed by the State to not more than 95 percent of the salary for the Office of Governor during the same period. (NRS 281.123) Sections 1-5 exempt the salaries of the officers and employees of the Commission from this salary limitation and require that the amount of the salaries be within the limits of the respective biennial agency budgets adopted by the Commission.

The State Budget Act prescribes the procedures for the proposal of the budget for the Executive Department of the State Government. (NRS 353.150-353.246) Professional licensing and certification boards and

commissions, which are not funded by money from the State General Fund, are exempted entirely from the requirements of the State Budget Act and therefore do not submit their budgets for review and approval by the Executive Department and the Legislature. (NRS 353.005) The Legislative and Judicial Departments of the State Government, the Public Employees' Retirement System and the Tahoe Regional Planning Agency are required to submit their budgets to the Legislature for approval and to the Chief of the Budget Division of the Department of Administration for informational purposes, but are otherwise exempt from the requirements of the State Budget Act. (NRS 353.210, 353.246) In the same manner, sections 24 and 25 of this bill exempt the Public Utilities Commission of Nevada from the requirements of the State Budget Act, except for the requirements of submitting its biennial agency budget to the Legislature for approval and to the Chief of the Budget Division for informational purposes.

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

Section 1. NRS 703.025 is hereby amended to read as follows:

703.025 1. The Commission, by majority vote, shall organize the Commission into sections, alter the organization of the Commission and reassign responsibilities and duties of the sections of the Commission as the Commission deems necessary to provide:

(a) Advice and guidance to the Commission on economic policies relating to utilities under the jurisdiction of the Commission, and the regulation of such utilities;

(b) Administrative, technical, legal and support services to the Commission; and

(c) For the regulation of utilities governed by the Commission and the services offered by such utilities, including, but not limited to, licensing of such utilities and services and the resolution of consumer complaints.

2. The Commission shall:

(a) Formulate the policies of the various sections of the Commission. ~~[-]~~

(b) Coordinate the activities of the various sections of the Commission. ~~[-]~~

(c) If customers are authorized by a specific statute to obtain a competitive, discretionary or potentially competitive utility service, take any actions which are consistent with the statute and which are necessary to encourage and enhance:

(1) A competitive market for the provision of that utility service to customers in this State; and

(2) The reliability and safety of the provision of that utility service within that competitive market. ~~[-and]~~

(d) Adopt biennially a budget for the operation of the Commission for submission pursuant to NRS 353.210 and 353.246. The biennial agency budget must include, without limitation, all projected revenues and

expenditures for the Commission to carry out its powers and duties during the 2 fiscal years included in the biennial agency budget. Any changes to the biennial agency budget must be adopted by the Commission. Except as otherwise provided in paragraphs (e) and (f), a change to the biennial agency budget is effective upon adoption by the Commission pursuant to this paragraph.

(e) If, pursuant to paragraph (d), the Commission adopts a change to the expenditure category allotment contained in the budget submitted to the Legislature pursuant to subsection 2 of NRS 353.246 which would increase the agency's expenses by 10 percent or \$75,000, whichever is less, or increase the agency's salary expenses, the change must be submitted to the Interim Finance Committee for approval and the change becomes effective only upon such approval. Changes to the budget which are not rejected by the Interim Finance Committee within 45 days after submission pursuant to this paragraph shall be deemed approved.

(f) If a change to which paragraph (e) applies is necessary due to an emergency as defined in NRS 353.263 or for the protection of life or property, the Commission shall submit the change for review by the Governor through the Chief of the Budget Division of the Department of Administration instead of submitting a request to the Interim Finance Committee pursuant to paragraph (e). The Governor shall approve or reject the requested change within 15 days and shall report his or her action on the change to the Interim Finance Committee at its first meeting after the action is taken. The change becomes effective only upon such approval.

(g) Adopt such rules and policies as the Commission deems appropriate to establish the employment rights of the Commissioners and the persons appointed or employed by the Commission.

(h) In addition to the benefits provided to state officers and employees pursuant to chapters 286 and 287 of NRS, determine the other benefits of the Commissioners and the persons appointed or employed by the Commission within the limits of the biennial agency budget adopted by the Commission pursuant to paragraph (d).

(i) Adopt salary ranges for the position of Commissioner and the positions of persons appointed or employed by the Commission within the limits of the biennial agency budget adopted by the Commission pursuant to paragraph (d).

(j) Adopt such regulations consistent with law as the Commission deems necessary for the operation of the Commission and the enforcement of all laws administered by the Commission.

3. Before reorganizing the Commission, the Commission shall submit the plan for reorganization to:

(a) The Director of the Legislative Counsel Bureau for transmittal to the appropriate legislative committee and the Interim Finance Committee; and

(b) The Director of the Department of Administration.

Sec. 2. NRS 703.080 is hereby amended to read as follows:

703.080 1. The Chair and the other Commissioners, including any Acting Commissioners, are not in the classified or unclassified service of the State.

2. Except as otherwise provided in subsection 6 of NRS 703.085, the Chair and other Commissioners are entitled to receive an annual salary determined by the Commission which is within the salary range for the positions adopted by the Commission pursuant to NRS 703.025. The salaries of the Chair and other Commissioners are exempt from the limitations set forth in NRS 281.123.

3. Notwithstanding any other specific statute to the contrary and regardless of the length of service, a person who is appointed to serve as an Acting Commissioner pursuant to NRS 703.085 is not entitled because of that appointment to participate in any programs or receive any benefits that are offered or provided to state officers or employees in the ~~unclassified~~ service of the State pursuant to chapter ~~[284,]~~ 286 or 287 of NRS ~~[,]~~ or any benefits or employment rights offered or provided to the Commissioners and the persons appointed or employed by the Commission pursuant to subsection 2 of NRS 703.025.

Sec. 3. NRS 703.085 is hereby amended to read as follows:

703.085 1. All Commissioners are required for the Commission to act in any matter involving:

(a) A general rate application or an annual deferred energy accounting adjustment application of an electric utility or a public utility which purchases natural gas for resale; and

(b) A plan of an electric utility to increase its supply of electricity or decrease the demands made on its system pursuant to NRS 704.741.

2. Except as otherwise provided in subsection 1, a majority of the commissioners has full power to act in all matters within the jurisdiction of the Commission.

3. Before the Commission may enter a final order on a matter, there must be at least the required number of commissioners who are able to act on the matter. If there are fewer than the required number of commissioners who are able to act on the matter because of disqualifications, illnesses, incapacities, vacancies that have not yet been filled, or any other reason, the Governor shall appoint the requisite number of persons to serve as acting commissioners in the place of the commissioners who are unable to act on the matter so that there are at least the required number of persons who are able to act on the matter, whether serving as a commissioner or an acting commissioner. If there are fewer than the required number of commissioners who are able to act on the matter because of disqualifications, illnesses, incapacities, vacancies that have not yet been filled, or any other reason, and the Governor has not appointed the requisite number of persons to serve as acting commissioners pursuant to this subsection, the Commission may

designate a hearing officer appointed pursuant to subsection ~~7~~ 5 of NRS 703.130 to serve as an acting commissioner.

4. Before the Governor may appoint a person to serve as an acting commissioner in the place of a commissioner who is unable to act on the matter, the person must be qualified to serve in the office of that commissioner as if the Governor were appointing the person to fill a vacancy in that office.

5. A person who is appointed or authorized to serve as an acting commissioner shall be deemed to be a commissioner and is entitled to exercise the powers of a commissioner only in proceedings before the Commission that involve the matter or matters for which the person is appointed or authorized to serve as an acting commissioner.

6. A person who is appointed to serve as an acting commissioner:

(a) Is subject to all legal requirements and restrictions and enjoys all legal protections and immunities that apply to a commissioner and to state officers generally while the person is engaged in the business of the Commission as an acting commissioner; and

(b) Is entitled to receive, for each day the person is engaged in the business of the Commission as an acting commissioner, a salary of \$80 and the per diem allowance and travel expenses provided for state officers and employees generally. The person is not entitled to receive any other compensation for serving as an acting commissioner.

7. A person who is appointed to serve as an acting commissioner serves at the pleasure of the Governor. The appointment of the person expires:

(a) On the date that the Governor declares that the appointment has expired; or

(b) On the date that the matter or matters for which the person was appointed are no longer pending before the Commission,
 ➔ whichever date occurs earlier.

8. The Governor may reappoint a person to serve as an acting commissioner.

Sec. 4. NRS 703.130 is hereby amended to read as follows:

703.130 1. ~~[The Commission shall, within the limits of legislative appropriations or authorizations, employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of its duties and the operation of the Commission may require.~~

~~2.]~~ The Commission shall appoint an Executive Director, who must be:

(a) Knowledgeable and experienced in public administration and fiscal management;

(b) Knowledgeable in the areas of utility regulation by the Commission; and

(c) Independent of and have no pecuniary interest in any entity regulated by the Commission.

~~[3-]~~ 2. The Executive Director shall:

(a) Serve as Chief Financial Officer for the Commission;
 (b) Direct the daily operation of the Commission, including, without limitation:

- (1) Budget preparation;
- (2) Administration;
- (3) Human resources;
- (4) Purchases and acquisitions made by the Commission; and
- (5) Contracts and leases entered into by the Commission;

(c) ~~[Develop]~~ Except as otherwise provided in subsection 2 of NRS 703.025, develop and implement policies and procedures to ensure the efficient operation of the Commission;

(d) Oversee:

(1) The review of applications for certificates, permits and modifications of tariffs;

(2) The maintenance of a hearing calendar of all matters pending before the Commission; and

(3) Compliance with and enforcement of statutes and regulations pertaining to utilities which are regulated by the Commission; and

(e) Authenticate documents and serve as custodian of all agency records.

~~[4-]~~ 3. The Executive Director is not in the classified or unclassified service of the State.

~~5. The Executive Director, with the approval of the Commission, shall designate a Secretary who shall perform such administrative and other duties as are prescribed by the Executive Director. The Executive Director, with the approval of the Commission, shall also designate an Assistant Secretary.~~

~~6.] and serves at the pleasure of the Commission. The Executive Director is entitled to receive an annual salary determined by the Commission which is within the salary range for the position adopted by the Commission pursuant to NRS 703.025. The salary of the Executive Director is exempt from the limitations set forth in NRS 281.123.~~

~~4. The Executive Director [may employ such other clerks, experts or engineers as may be necessary.~~

~~7.] shall, within the limits of the biennial agency budget adopted by the Commission pursuant to NRS 703.025, employ such persons as he or she deems necessary to carry out the powers and duties of the Commission. A person employed pursuant to this subsection:~~

~~(a) Has such duties as may be determined by the Executive Director.~~

~~(b) Is not in the classified or unclassified service of the State.~~

~~(c) Serves at the pleasure of the Executive Director.~~

~~(d) Is entitled to receive an annual salary determined by the Executive Director which is within the salary range for the position adopted by the Commission pursuant to NRS 703.025. The salary of a person employed~~

pursuant to this subsection is exempt from the limitations set forth in NRS 281.123.

5. Except as otherwise provided in subsection ~~[8.]~~ 6. the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS. A hearing officer appointed pursuant to this paragraph:

(1) Is not in the classified or unclassified service of the State.

(2) Serves at the pleasure of the Commission.

(3) Is entitled to receive a salary determined by the Commission which is within the salary range for the position adopted by the Commission pursuant to NRS 703.025. The salary of a hearing officer is exempt from the limitations set forth in NRS 281.123.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

~~[8.]~~ 6. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application.

~~[9.]~~ 7. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 5. NRS 703.164 is hereby amended to read as follows:

703.164 1. The Commission may ~~[employ.]~~ appoint, or retain on a contract basis, legal counsel who shall:

(a) Except as otherwise provided in subsection ~~[2.]~~ 3. be counsel and attorney for the Commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the Commission all civil actions for the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Commission in the performance of its duties and the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS.

2. Any legal counsel appointed by the Commission pursuant to subsection 1:

(a) Is not in the classified or unclassified service of the State.

(b) Serves at the pleasure of the Commission.

(c) Is entitled to receive an annual salary determined by the Commission which is within the salary range for the position adopted by the Commission

pursuant to NRS 703.025. The salary of legal counsel appointed pursuant to subsection 1 is exempt from the limitations set forth in NRS 281.123.

3. Each district attorney shall:

(a) Prosecute any violation of chapter 704, 704A, 705, 708 or 711 of NRS for which a criminal penalty is provided and which occurs in the district attorney's county.

(b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, 708 or 711 of NRS and, at the request of the Commission or its legal counsel, act as counsel and attorney for the Commission.

~~{3.}~~ 4. The Attorney General shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities under the jurisdiction of the Commission and their officers, agents and employees.

~~{4.}~~ 5. The Attorney General is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the Commission is a party and is represented by independent counsel.

~~{Section 1.}~~ Sec. 6. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{2 to 13.}~~ 7 to 18, inclusive, of this act.

~~{Sec. 2.}~~ Sec. 7. *As used in sections ~~{2 to 13.}~~ 7 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~{3 to 9.}~~ 8 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

~~{Sec. 3.}~~ Sec. 8. "Asset" has the meaning ascribed to the term "generation asset" in NRS 704.7575 which contains ~~{100}~~ 50 or more contiguous acres, and of which all real and personal property, including, without limitation, land, structures, equipment ~~{, associated}~~ and transmission lines and switching stations ~~{,}~~ directly associated with the generation asset, are located wholly or partially within this State.

~~{Sec. 4.}~~ Sec. 9. "Decommissioned" means a surplus asset on which all operations have ceased and which has been cleared and environmentally remediated as necessary and which is ready for sale or disposal.

~~{Sec. 5.}~~ Sec. 10. "Electric utility" means any public utility that is in the business, on lands within this State, as sole owner or co-owner ~~{, and by means of electric power generation, transmission, distribution.}~~ of an asset that provides sales or service ~~{,}~~ of electricity to customers within or outside of this state ~~{, and in the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year or the calendar year in which operations were ceased, had a gross operating revenue of \$250,000,000 or more in this State. The term includes an electric utility as defined in NRS 704.7571.}~~

~~{Sec. 6.}~~ Sec. 11. "Operational" means an asset which is actively utilized or operating at ~~for near~~ full capacity ~~[, or at some]~~ or reduced capacity ~~in conjunction with an emissions reduction and capacity replacement plan pursuant to NRS 704.7316 or otherwise, but not at less than 10 percent of capacity.~~

~~{Sec. 7.}~~ Sec. 12. "Post-operational reserve" means an asset which was formerly operational that is currently closed ~~and~~ or temporarily out-of-service ~~for operating at less than 10 percent of capacity~~ and held for future energy generation.

~~{Sec. 8.}~~ Sec. 13. "Pre-operational reserve" means vacant land held for future energy generation or property in planning or under construction for future energy generation and intended for the creation of a future asset.

~~{Sec. 9.}~~ Sec. 14. "Surplus" means an asset that is out-of-service and no longer needed, suitable or reasonably intended to be used to generate electricity.

~~{Sec. 10.}~~ Sec. 15. 1. Each electric utility that is required to file a plan pursuant to NRS 704.741 shall include as part of that plan a list of all assets of the electric utility.

2. Each electric utility not specified in subsection 1 which holds a permit issued pursuant to NRS 704.870 shall, on or before January 31 of each year, file with the Commission a list of all assets.

3. Each electric utility not specified in subsection 1 or 2 which owns a utility facility, as defined in NRS 704.860, that was permitted by a local authority based on an application filed before July 1, 1971, shall file with the Commission a list of all assets of the electric utility.

4. The list of assets required by subsections 1, 2 and 3 must:

- ~~{1.}~~ (a) Include a brief description of each asset;
- ~~{2.}~~ (b) Include the output capacity of each asset;
- ~~{3.}~~ (c) Classify each asset as operational, pre-operational reserve, post-operational reserve, surplus or decommissioned; and
- ~~{4.}~~ (d) For each asset classified as pre-operational reserve or post-operational reserve, include a statement in a form approved by the Commission regarding the viability of the future use of the asset for energy generation.

5. Any asset with more than one owner must be included on the list of assets of each owner who is required to file a list pursuant to this section.

~~{Sec. 11.}~~ Sec. 16. For each asset classified by an electric utility as pre-operational reserve or post-operational reserve pursuant to :

1. Subsection 1 of section ~~{10.}~~ 15 of this act, the Commission may, after notice and a hearing pursuant to NRS ~~{703.320, reclassify the asset as surplus if the Commission determines that the asset is no longer being held in the public trust and should not be considered in the determination of rate.}~~ 704.746, reclassify the asset as surplus if the Commission determines that the asset is no longer used or useful to the customers of the electric utility.

2. Subsections 2 or 3 of section 15 of this act, the Commission may, after notice and a hearing pursuant to NRS 703.320, reclassify the asset as surplus if the Commission determines that the asset is no longer utilized to produce or transmit electricity and that it is not reasonable to expect that the asset will be used to produce or transmit electricity in the future.

~~[Sec. 12.]~~ Sec. 17. 1. For each asset which has been classified as surplus by an electric utility pursuant to section ~~110~~ 15 of this act or reclassified as surplus by the Commission pursuant to section ~~111~~ 16 of this act, ~~the~~ each electric utility which owns all or part of the asset shall file a surplus asset retirement plan with the Commission within 120 days after the asset has been classified or reclassified as surplus. Such a plan is subject to the approval of the Commission.

2. A surplus asset retirement plan must include:

(a) A brief description of the asset, including without limitation, its generating capacity, its current condition and any details regarding ownership.

(b) A plan for the decommissioning of the site, including without limitation, the closure of any remaining operational activities, any required environmental remediation, the removal and disposal of any physical assets deemed unsuitable for redevelopment and remediation, as determined by the Division of Environmental Protection of the State Department of Conservation and Natural Resources pursuant to NRS 704.7318, or, if decommissioning is underway or completed, a full description of the decommissioning program.

(c) ~~A plan for the valuation of the asset, including without limitation, an accounting value for customer and shareholder purposes, as determined by the Commission pursuant to NRS 704.440 and a market value for disposition purposes as determined by the electric utility.~~

~~(d)]~~ A marketing plan for the sale of the asset, prepared in consultation with the Office of Economic Development, which must disclose any environmental issues or other restrictions and emphasize the value of the asset in its marketplace.

~~[(e)]~~ (d) A timeline for implementation of the plan, including without limitation, key dates for completion of benchmarks including a final sale date. To the extent reasonably possible, the timeline must indicate a final sale date that is within 30 months after commencement of the plan.

~~[3. Reasonable costs related to the decommissioning, marketing and sale or disposal of a surplus asset may be charged to the electric utility's customers pursuant to subsection 13 of NRS 704.110.]~~

~~[Sec. 13.]~~ Sec. 18. ~~[1. Except as otherwise provided in subsection 2, an asset must be removed from the responsibility of the electric utility's customers after the asset is sold or after the projected final sale date indicated in the surplus asset retirement plan pursuant to section 12 of this~~

~~act, whichever occurs first, regardless of whether the asset has actually been sold.~~

~~2. Except as otherwise provided in this section, each electric utility that owns all or part of an asset which has been classified as surplus by an electric utility pursuant to section 15 of this act or reclassified as surplus by the Commission pursuant to section 16 of this act shall carry out the surplus asset retirement plan filed pursuant to section 17 of this act. The Commission may, for good cause, extend the projected final sale date ~~[included in]~~ or otherwise amend the surplus asset retirement plan. ~~pursuant to section 12 of this act.~~~~

~~3. Any surplus asset, or portion thereof, that is deemed to have no market value or is not transferable due to environmental damage or other reasons must not be included in determining rates.]~~

~~[Sec. 14.] Sec. 19. [NRS 704.110 is hereby amended to read as follows:~~

~~704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:~~

~~1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.~~

~~2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.~~

~~3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months,~~

~~but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:~~

~~—(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2010, and at least once every 36 months thereafter.~~

~~—(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2011, and at least once every 36 months thereafter.~~

~~—(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.~~

~~—(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of \$2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.~~

~~The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.~~

~~4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:~~

~~(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and~~

~~(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.~~

~~5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.~~

~~6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency~~

~~would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 10, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.~~

~~— 7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:~~

~~— (a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 10; or~~

~~— (b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis pursuant to subsection 8.~~

~~— 8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.~~

~~— 9. If the Commission approves a request to make any rate adjustments on a quarterly basis pursuant to subsection 8:~~

~~— (a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~— (b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's~~

~~regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:~~

~~— (1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and~~

~~— (2) Must include the following:~~

~~— (I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;~~

~~— (II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;~~

~~— (III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;~~

~~— (IV) A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and~~

~~— (V) Any other information required by the Commission.~~

~~— (e) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~— (d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of natural gas included in each quarterly filing and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.~~

~~— (e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.~~

~~— 10. An electric utility shall adjust its rates on a quarterly basis based on changes in the electric utility's recorded costs of purchased fuel or purchased power. In addition to adjusting its rates on a quarterly basis, an electric utility~~

~~may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.~~

~~11. A quarterly rate adjustment filed pursuant to subsection 10 is subject to the following requirements:~~

~~(a) The electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~(b) The electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:~~

~~(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and~~

~~(2) Must include the following:~~

~~(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;~~

~~(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;~~

~~— (III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;~~

~~— (IV) A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and~~

~~— (V) Any other information required by the Commission.~~

~~— (e) The electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.~~

~~— (d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of purchased fuel and purchased power included in each quarterly filing and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.~~

~~— (e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.~~

~~— 12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 and NRS 704.187 while a general rate application is pending, the electric utility shall:~~

~~— (a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and~~

~~— (b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.~~

~~— 13. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto, [or] the retirement or elimination of a utility facility identified in an~~

~~emissions reduction and capacity replacement plan submitted pursuant to NRS 704.7316 and accepted by the Commission for retirement or elimination pursuant to NRS 704.751 and the regulations adopted pursuant thereto, or the sale or disposal of a surplus asset pursuant to section 12 of this act, shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing, or retiring or eliminating, as applicable, such a facility.~~

~~14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:~~

~~(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:~~

~~(1) Until a date determined by the Commission; and~~

~~(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and~~

~~(b) Authorize a utility to implement a reduced rate for low income residential customers.~~

~~15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.~~

~~16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the public interest.~~

~~17. As used in this section:~~

~~(a) "Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt hours which have been sold in the geographical area to which the rate applies during the specified period.~~

~~(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.~~

~~(c) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.~~

~~(d) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.~~

~~(e) "Surplus" has the meaning ascribed to it in section 9 of this act.~~
(Deleted by amendment.)

~~[Sec. 15.]~~ Sec. 20. NRS 704.7318 is hereby amended to read as follows:

704.7318 1. To ensure the remediation and, when possible, the reuse of any site used for the production of electricity from a coal-fired electric generating plant, *natural gas electric generating plant or renewable energy facility* in this State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources has exclusive jurisdiction to supervise and regulate the remediation of such sites, including, without limitation, exclusive authority to regulate and supervise the remediation of surface water and groundwater and solid-waste disposal operations located at such a site.

2. The Division of Environmental Protection has exclusive authority to regulate emissions from any electric generating plant constructed on a site previously used for the production of electricity from a coal-fired electric generating plant.

Sec. 20.5. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation:

(a) Prescribe the contents of such a plan, including, but not limited to, the methods or formulas which are used by the utility to:

(1) Forecast the future demands; and

(2) Determine the best combination of sources of supply to meet the demands or the best method to reduce them; and

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan:

(a) An energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel and which includes, without limitation, the use of new solar thermal energy sources; ~~and~~

(b) A comparison of a diverse set of scenarios of the best combination of sources of supply to meet the demands or the best methods to reduce the demands, which must include at least one scenario of low carbon intensity. ~~[.]~~

(c) A list of the utility's assets described in section 15 of this act; and

(d) A surplus asset retirement plan as required by section 17 of this act.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.

5. As used in this section:

(a) "Carbon intensity" means the amount of carbon by weight emitted per unit of energy consumed.

(b) "Renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

~~[Sec. 16.]~~ *Sec. 21.* NRS 704.7588 is hereby amended to read as follows:

704.7588 Except as otherwise provided in NRS 704.7311 to 704.7322, inclusive, and 704.7591 ~~[-]~~ and section ~~112~~ 17 of this act:

1. Before July 1, 2003, an electric utility shall not dispose of a generation asset.

2. On or after July 1, 2003, an electric utility shall not dispose of a generation asset unless, before the disposal, the Commission approves the disposal by a written order issued in accordance with the provisions of this section.

3. Not sooner than January 1, 2003, an electric utility may file with the Commission an application to dispose of a generation asset on or after July 1, 2003. If an electric utility files such an application, the Commission shall not approve the application unless the Commission finds that the disposal of the generation asset will be in the public interest. The Commission shall issue a written order approving or disapproving the application. The Commission may base its approval of the application upon such terms, conditions or modifications as the Commission deems appropriate.

4. If an electric utility files an application to dispose of a generation asset, the Consumer's Advocate shall be deemed a party of record.

5. If the Commission approves an application to dispose of a generation asset before July 1, 2003, the order of the Commission approving the application:

(a) May not become effective sooner than July 1, 2003;

(b) Does not create any vested rights before the effective date of the order; and

(c) For the purposes of NRS 703.373, shall be deemed a final decision on the date on which the order is issued by the Commission.

Sec. 21.3. NRS 704.870 is hereby amended to read as follows:

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; ~~and~~

(c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility ~~and~~; *and*

(d) A surplus asset retirement plan as described in subsection 2 of section 17 of this act for the decommissioning, removal, remediation and disposition of the utility facility after it ceases to operate, including a description of the manner in which the plan will be funded.

↪ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

(a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility facility, file with the Commission and each other permitting entity a notice, in such a form as the Commission or other permitting entity prescribes; and

(b) Not later than 30 days after the issuance by the appropriate federal agency of either the final environmental assessment or final environmental impact statement, but not the record of decision or similar document, relating to the construction of the utility facility:

(1) File with the Commission an application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application filed with the Commission must be filed with the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each application filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application in newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application pursuant to this section, the Commission shall issue a notice concerning the application. Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission

the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 21.7. NRS 704.890 is hereby amended to read as follows:

704.890 1. Except as otherwise provided in subsection 3, the Commission may not grant a permit for the construction, operation and maintenance of a utility facility, either as proposed or as modified by the Commission, to a person unless it finds and determines:

- (a) The nature of the probable effect on the environment;
- (b) If the utility facility emits greenhouse gases and does not use renewable energy as its primary source of energy to generate electricity, the extent to which the facility is needed to ensure reliable utility service to customers in this State;
- (c) That the need for the facility balances any adverse effect on the environment;
- (d) That the facility represents the minimum adverse effect on the environment, considering the state of available technology and the nature and economics of the various alternatives;
- (e) That the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder and the applicant has obtained, or is in the process of obtaining, all other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances; ~~and~~

(f) That the surplus asset retirement plan filed pursuant to NRS 704.870:

(1) Complies with federal, state and local laws;

(2) Provides for the remediation and reuse of the facility within a reasonable period; and

(3) Is able to be reasonably completed under the funding plan contained in the application; and

(g) That the facility will serve the public interest.

2. If the Commission determines that the location of all or a part of the proposed facility should be modified, it may condition its permit upon such a modification. If the applicant has not obtained all the other permits, licenses and approvals required by federal, state and local statutes, regulations and ordinances as of the date on which the Commission decides to issue a permit, the Commission shall condition its permit upon the applicant obtaining those permits and approvals.

3. The requirements set forth in paragraph ~~((d))~~ (g) of subsection 1 do not apply to any application for a permit which is filed by a state government or political subdivision thereof.

4. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

~~{Sec. 17.}~~ *Sec. 22. NRS 231.055 is hereby amended to read as follows:*

231.055 Under the direction of the Executive Director, the Office:

1. Shall provide administrative and technical support to the Board.
 2. Shall support the efforts of the Board, the regional development authorities designated by the Executive Director pursuant to subsection 4 of NRS 231.053 and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada.
 3. Shall coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053, including, without limitation:
 - (a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;
 - (b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of businesses in Nevada or the relocation of businesses to Nevada; and
 - (c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives, development resources, and grants and loans of money provided by the Office.
 4. *Shall, upon request, assist ~~for a public~~ an electric utility with the marketing of vacant or decommissioned assets for sale and redevelopment pursuant to section ~~127~~ 17 of this act.*
 5. May:
 - (a) Participate in any federal programs for economic development that are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and
 - (b) When practicable and authorized by federal law, act as the agency of this State to administer such federal programs.
- Sec. 23. NRS 284.140 is hereby amended to read as follows:
- 284.140 ~~[The]~~ Except as otherwise provided by specific statute, the unclassified service of the State consists of the following state officers or employees in the Executive Department of the State Government who receive annual salaries for their services:
1. Members of boards and commissions, and heads of departments, agencies and institutions required by law to be appointed.
 2. ~~[Except as otherwise provided in NRS 223.085, 223.570 and 223.600, all]~~ All persons required by law to be appointed by the Governor or heads of departments or agencies appointed by the Governor or by boards.
 3. All employees other than clerical in the Office of the Attorney General and the State Public Defender required by law to be appointed by the Attorney General or the State Public Defender.
 4. Except as otherwise provided by the Board of Regents of the University of Nevada pursuant to NRS 396.251, officers and members of the

teaching staff and the staffs of the Agricultural Extension Department and Experiment Station of the Nevada System of Higher Education, or any other state institution of learning, and student employees of these institutions. Custodial, clerical or maintenance employees of these institutions are in the classified service. The Board of Regents of the University of Nevada shall assist the Administrator in carrying out the provisions of this chapter applicable to the Nevada System of Higher Education.

5. All other officers and employees authorized by law to be employed in the unclassified service.

Sec. 24. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsections 6 and 7, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of full-time equivalent positions within the department, institution or agency.

(b) The number of full-time equivalent positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy.

(c) Any existing contracts for services the department, institution or agency has with temporary employment services or other persons, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such services. If such contracts include any privatization contracts, a copy of each of those privatization contracts together with:

(1) A statement specifying the duration of the privatization contracts;

(2) The number of privatization contracts proposed for the next 2 fiscal years and the estimated expenditures for the privatization contracts; and

(3) An analysis of each of the privatization contracts, which includes, without limitation:

(I) For the preceding, current and next fiscal years, the annual amount required to perform each of the privatization contracts; and

(II) For the preceding and current fiscal years, the number of persons the department, institution or agency employed pursuant to the privatization contracts, reflected as the equivalent full-time position if the persons were regularly employed by the department, institution or agency, including the equivalent hourly wage and the cost of benefits for each job classification.

(d) Estimates of expenditure requirements of the department, institution or agency, together with all anticipated income from fees and all other sources,

for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his or her designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures by program or budgetary account and by category of expense, and must include a mission statement and measurement indicators in adequate detail to comply with the requirements of subparagraph (3) of paragraph (b) of subsection 1 of NRS 353.205. The organizational units may be subclassified by functions and by agencies, bureaus or commissions, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in the Chief's office or which the Chief may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department ~~[, the Public Employees' Retirement System]~~ and the Judicial Department of the State Government , the Public Employees' Retirement System and the Public Utilities Commission of Nevada shall submit to the Chief for his or her information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

7. On or before September 1 of each even-numbered year, the Tahoe Regional Planning Agency shall submit the budget which the Agency proposes to submit to the Legislature to:

(a) The Chief for his or her information in preparing the proposed executive budget.

(b) The Fiscal Analysis Division of the Legislative Counsel Bureau.

8. The information provided by a department, institution or agency pursuant to paragraph (c) of subsection 1 is a public record and must be open to public inspection.

9. As used in this section, "privatization contract" means a contract executed by or on behalf of a department, institution or agency which authorizes a private entity to provide public services which are:

(a) Substantially similar to the services performed by the public employees of the department, institution or agency; and

(b) In lieu of the services otherwise authorized or required to be provided by the department, institution or agency.

Sec. 25. NRS 353.246 is hereby amended to read as follows:

353.246 1. Except as otherwise provided in subsection 2 of this section and subsections 6 and 7 of NRS 353.210, the provisions of NRS 353.150 to 353.245, inclusive, do not apply to agencies, bureaus, commissions and officers of the Legislative Department ~~[the Public Employees' Retirement System]~~ and the Judicial Department of the State Government, *the Public Employees' Retirement System, the Public Utilities Commission of Nevada* and the Tahoe Regional Planning Agency.

2. The Legislative Department ~~[the Public Employees' Retirement System]~~ and the Judicial Department of the State Government, *the Public Employees' Retirement System, the Public Utilities Commission of Nevada* and the Tahoe Regional Planning Agency shall submit their budgets to the Legislature in the same format as the proposed executive budget unless otherwise provided by the Legislative Commission. All projections of revenue and any other information concerning future state revenue contained in those budgets must be based upon the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228.

Sec. 26. 1. If, on July 1, 2015, the Public Utilities Commission of Nevada has not adopted the rules, policies and salary ranges and determined the benefits for all of its officers and employees who are not in the classified or unclassified service of the State on July 1, 2015, as required pursuant to paragraphs (e), (f) and (g) of subsection 2 of NRS 703.025, as amended by section 1 of this act, those officers and employees are entitled to the same rights and privileges as they enjoyed under chapter 284 of NRS before July 1, 2015, until the adoption of those rules, policies and salary ranges and the determination of those benefits.

2. A person who is employed by the Public Utilities Commission of Nevada on June 30, 2015, with permanent status in the classified service may request the Division of Human Resource Management of the Department of Administration to place his or her name on an appropriate reemployment list maintained by the Division. Upon receipt of such a request, the Division shall maintain such an employee on the reemployment list until June 30, 2016, or until the person is reemployed by the Executive Department of the State Government in the classified service in the class or a comparable class with

the same grade as the position that the person held with the Commission before the position was moved from the classified service, whichever occurs earlier. An employee's eligibility to remain on the reemployment list during the period specified in this subsection is not affected by any separation from service of the employee with the Commission during that period.

3. A person who is employed by the Public Utilities Commission of Nevada on June 30, 2015, with permanent status in the classified service, is entitled to the same rights and privileges as he or she enjoyed under chapter 284 of NRS as of that date until that person opts to accept employment under the rules, policies, salary ranges, and benefits adopted by the Commission pursuant to paragraphs (e), (f) and (g) of subsection 2 of NRS 703.025, as amended by section 1 of this act, or June 30, 2016, whichever is sooner.

Sec. 27. This act becomes effective:

1. Upon passage and approval for purposes of the Public Utilities Commission of Nevada carrying out its duties pursuant to subsection 2 of NRS 703.025, as amended by section 1 of this act.

2. On July 1, 2015, for all other purposes.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

This amendment allows the PUC to be able to set their salaries in such a way that it does not have a financial impact on the State. It allows for the surplus decommissioning to actually be conducted by people who know what they are doing, and they are kept as employees of the State.

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

Motion carried.

Senate in recess at 12:22 p.m.

SENATE IN SESSION

At 12:26 p.m.

President Hutchison presiding.

Quorum present.

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

Motion carried.

(Amendment No. 1030 withdrawn.)

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 111.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1027.

SUMMARY—~~[Provides for]~~ Requires the use of portable event recording devices by certain peace officers ~~[who]~~ employed by the Nevada Highway Patrol Division of the Department of Public Safety. (BDR ~~[23-618]~~ 43-618)

AN ACT relating to ~~[peace officers]~~ the Nevada Highway Patrol Division of the Department of Public Safety; requiring certain peace officers employed by the Nevada Highway Patrol to wear a portable event recording device under certain circumstances; requiring ~~[certain law enforcement agencies]~~ the Nevada Highway Patrol to adopt policies and procedures governing the use of portable event recording devices; providing that records made by portable event recording devices are public records and may be requested under certain circumstances; exempting the use of portable event recording devices from provisions governing the interception of certain communications; exempting the use of portable event recording devices upon certain property; requiring the Advisory Commission on the Administration of Justice to review ~~[any]~~ the policies and procedures adopted by ~~[a law enforcement agency]~~ the Nevada Highway Patrol governing the use of portable event recording devices; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires: (1) certain peace officers employed by the Nevada Highway Patrol to wear a portable event recording device while on duty; and (2) ~~[certain law enforcement agencies]~~ the Nevada Highway Patrol to adopt policies and procedures governing the use of portable event recording devices. Section 1 also establishes that any record made by a portable event recording device is a public record which may only be requested: (1) on a per incident basis; and (2) viewed at the location where the record is held if the record contains confidential information.

Existing law authorizes investigative or law enforcement officers to intercept wire or oral communications, subject to certain requirements. (NRS 179.410-179.515) Section 2 of this bill exempts a portable event recording device worn by a peace officer employed by the Nevada Highway Patrol from the definition of an "electronic, mechanical or other device" used to intercept wire or oral communication.

Existing law also prohibits surreptitious electronic surveillance on: (1) the grounds of any facility owned or leased by the State of Nevada; (2) the property of a public school; or (3) a campus of the Nevada System of Higher Education. (NRS 331.200, 393.400, 396.970) Sections 3-5 of this bill create an exception for peace officers employed by the Nevada Highway Patrol wearing a portable event recording device in accordance with section 1 from certain provisions relating to unlawful surreptitious electronic surveillance.

Section 6.5 of this bill requires ~~[each law enforcement agency]~~ the Nevada Highway Patrol to adopt initial policies and procedures governing the use of portable event recording devices by July 1, 2016. Section 6.5 further requires

the Advisory Commission on the Administration of Justice to review such initial policies and procedures at a meeting on or after July 1, 2016.

Section 6.3 of this bill makes an appropriation for the 2015-2017 biennium from the State Highway Fund to the Nevada Highway Patrol for the purpose of carrying out the requirements of this bill.

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

Section 1. Chapter ~~[289]~~ 480 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Each law enforcement agency or chief of school police]~~ The Nevada Highway Patrol shall:

(a) *Require each uniformed peace officer ~~fit employs~~ employed by the Nevada Highway Patrol who routinely interacts with the public to wear a portable event recording device while on duty.*

(b) *Adopt policies and procedures governing the use of portable event recording devices, including, without limitation:*

(1) *Requiring activation of a portable event recording device whenever a peace officer is:*

(I) *Responding to a call for service; or*

(II) *Initiating a law enforcement or investigative encounter with a member of the public;*

(2) *Prohibiting deactivation of a portable event recording device until the conclusion of the event described in subparagraph (1);*

(3) *Protecting the privacy of persons:*

(I) *In private residences;*

(II) *Seeking to report a crime or provide information regarding a crime or ongoing investigation anonymously; and*

(III) *Claiming to be a victim of a crime;*

(4) *Requiring that any record made by a portable event recording device be retained by the ~~law enforcement agency~~ Nevada Highway Patrol for not less than 15 days; and*

(5) *Establishing disciplinary rules for peace officers who:*

(I) *Fail to operate a portable event recording device in accordance with any policy or procedure adopted pursuant to this section;*

(II) *Intentionally manipulate any record made by a portable event recording device in violation of any policy or procedure adopted pursuant to this section; or*

(III) *Prematurely erase or destroy any record made by a portable event recording device.*

2. *Any record made by a portable event recording device pursuant to this section is a public record which may only be:*

(a) *Requested on a per incident basis; and*

(b) *Available for inspection at the location where the record is held if the record contains confidential information that may not otherwise be redacted.*

3. *As used in this section ~~f~~*

~~(a) "Law enforcement agency" means:~~

~~(1) The sheriff's office of a county;~~

~~(2) A metropolitan police department;~~

~~(3) A police department of an incorporated city;~~

~~(4) The Department of Public Safety; or~~

~~(5) The Police Department of the Nevada System of Higher Education.~~

~~(b) "Portable" , "portable event recording device" means a device issued to a peace officer employed by ~~a law enforcement agency or chief of school police~~ the Nevada Highway Patrol to be worn on his or her body and which records both audio and visual events during an encounter with a member of the public while performing his or her duties as a peace officer.~~

Sec. 2. NRS 179.425 is hereby amended to read as follows:

179.425 "Electronic, mechanical or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than:

1. Any telephone instrument, equipment or facility, or any component thereof:

(a) Furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or

(b) Being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his or her duties.

2. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

3. *A portable event recording device, as defined in section 1 of this act.*

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, and section 1 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and

may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. NRS 331.220 is hereby amended to read as follows:

331.220 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on the grounds of any facility owned or leased by the State of Nevada without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation; ~~for~~

(c) By a uniformed peace officer of the Nevada Highway Patrol Division of the Department of Public Safety pursuant to section 1 of this act; or

(d) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the grounds of the facility.

Sec. 4. NRS 393.400 is hereby amended to read as follows:

393.400 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on

any property of a public school without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property of the public school under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation;

(c) By a *uniformed peace officer of the Nevada Highway Patrol Division of the Department of Public Safety* pursuant to section 1 of this act;

(d) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the property of the public school; or

~~[(d)]~~ (e) Of a class or laboratory when authorized by the teacher of the class or laboratory.

Sec. 5. NRS 396.970 is hereby amended to read as follows:

396.970 1. Except as otherwise provided in subsection 2, it is unlawful for a person to engage in any kind of surreptitious electronic surveillance on a campus of the System without the knowledge of the person being observed.

2. Subsection 1 does not apply to any electronic surveillance:

(a) Authorized by a court order issued to a public officer, based upon a showing of probable cause to believe that criminal activity is occurring on the property under surveillance;

(b) By a law enforcement agency pursuant to a criminal investigation;

(c) By a *uniformed peace officer of the Nevada Highway Patrol Division of the Department of Public Safety* pursuant to section 1 of this act;

(d) Which is necessary as part of a system of security used to protect and ensure the safety of persons on the campus; or

~~[(d)]~~ (e) Of a class or laboratory when authorized by the teacher of the class or laboratory.

Sec. 6. ~~[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.]~~
(Deleted by amendment.)

Sec. 6.3. 1. There is hereby appropriated from the State Highway Fund to the Nevada Highway Patrol Division of the Department of Public Safety for the purpose of carrying out the requirements of section 1 of this act the following sums:

For the Fiscal Year 2015-2016..... \$785,002

For the Fiscal Year 2016-2017..... \$475,104

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2017, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2017, by either the entity to which the money was appropriated or the entity

to which the money was subsequently granted or transferred, and must be reverted to the State Highway Fund on or before September 15, 2017.

Sec. 6.5. 1. ~~[Each law enforcement agency and chief of school police in this State]~~ The Nevada Highway Patrol Division of the Department of Public Safety shall adopt, at a minimum, initial policies and procedures as required by section 1 of this act, on or before July 1, 2016.

2. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the progress of ~~law enforcement agencies and chiefs of school police in this State]~~ the Nevada Highway Patrol in adopting initial policies and procedures as required by section 1 of this act. The meeting must be held on or after July 1, 2016.

3. ~~[A representative of each law enforcement agency and chief of school police]~~ The Director of the Department shall attend the meeting required by subsection 2 to provide a report concerning the progress of ~~this or her agency]~~ the Nevada Highway Patrol in adopting such policies and procedures.

~~[4. As used in this section, "law enforcement agency" has the meaning ascribed to it in section 1 of this act.]~~

Sec. 7. 1. This section and section 6.5 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective upon passage and approval for the purpose of adopting policies and procedures governing the use of portable event recording devices and on January 1, 2017, for all other purposes.

3. Section 6.3 of this act becomes effective on July 1, 2015.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senators Kieckhefer and Ford.

SENATOR KIECKHEFER:

This amendment does two key things: revises the bill to apply exclusively to the Nevada Highway Patrol; and adds an appropriation from the State Highway Fund to finance the purchase of the equipment needed to implement the bill.

SENATOR FORD:

First, let me say thank you to my colleague from District 16 for moving these out of his Committee. As everyone is probably aware of, this is the cop-car-camera bill that my colleague from District 4 and I have been working on the entire 78th Session. I am delighted that we are able to get something pressed out of this House. As everyone knows, this began as an effort to have every single uniformed officer in our State to wear body cameras in an effort to protect the public and police officers. We were unable to fund that in its entirety. We opted instead to begin with funding for DPS Officers to wear the devices. I am pleased about this, I have only shared this with two people in the building, and everyone else is going to know that the reason why this was such an important bill for me is because my sons asked me to bring this bill. They have seen the stories on television about interactions specifically, frankly, with young black men and police officers. My fourteen year old testified in support of my bill saying he has a right to feel safe. I agree. This bill will help him do so. I commend, again, my colleague from District 16 for being diligent in making this happen.

Amendment adopted.

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

Senate Bill No. 502.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 977.

SUMMARY—~~[Makes an appropriation to the Department of Motor Vehicles for the modernization of its current platform of information technology and]~~ Temporarily authorizes the Department of Motor Vehicles to collect a technology fee. (BDR 43-1177)

AN ACT relating to the Department of Motor Vehicles; ~~[creating an account in the Motor Vehicle Fund for system modernization;]~~ temporarily authorizing the Department to collect a technology fee; [making an appropriation;] temporarily increasing the limitation on the percentage of the proceeds of certain fees and charges collected by the Department that are authorized for the Department's costs of administration associated with the collection of those fees and charges; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 2 of this bill creates the Revolving Account for System Modernization within the Motor Vehicle Fund. Section 6 of this bill makes an appropriation of \$40,536,613 to the Account to pay for the upgrade of the platform of information technology used by the Department of Motor Vehicles.]~~ Section 3 of this bill authorizes the Department of Motor Vehicles to assess a \$1 technology fee on paid transactions, to be [deposited into the Account. Existing law requires that the cost of administration of the Department be not more than 22 percent of the license and registration fees collected. (NRS 408.235)] ~~Section 6.5 of this bill provides that section 3 becomes effective when the Director of the Department determines that sufficient resources are available to enable the Department to carry out the provisions of section 3. Section 5 of this bill excludes the money spent from the Account for the technology upgrade from the costs of administration.]~~ used by the Department to pay the expenses associated with implementing, upgrading and maintaining the platform of information technology used by the Department. Section 7 of this bill authorizes the collection of the technology fee until June 30, 2020.

Under existing law, all the proceeds from the imposition of any license or registration fee and other charges regarding the operation of a motor vehicle on any public highway, road or street in Nevada, except costs of administering the collection thereof, is required to be used exclusively for the construction, maintenance and repair of the State's public highways. (Nev. Const. Art. 9, 5; NRS 408.235) Existing law limits the amount of such proceeds that are authorized to be used for costs of administration to 22 percent of the proceeds collected. (NRS 408.235) Section 5 of this bill

temporarily increases this limitation for costs of administration to 27 percent during the period in which the Department is collecting the technology fee.

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~[1. *The Revolving Account for System Modernization is hereby created in the Motor Vehicle Fund.*~~

~~2. *The Director shall administer the Account. The money in the Account must be expended to pay for any costs associated with the implementation, upgrade and maintenance of the platform of information technology used by the Department.*~~

~~3. *The Director may apply for and accept any legislative appropriations, fees, gifts, grants, donations or other sources of money for deposit in the Account.*~~

~~4. *The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.*~~

~~5. *Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund or the State Highway Fund, and the balance of the Account must remain in the Account and be carried forward to the next fiscal year.*~~

~~6. *The expenditure of money in the Account is not deemed to be costs of administration of the Department for the purposes of NRS 408.235.*~~

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

~~(a) *"Information technology" has the meaning ascribed to it in NRS 242.050.*~~

~~(b) *"Platform" means a group of technologies that are used as a base upon which other applications, processes or technologies are developed.*~~
(Deleted by amendment.)

Sec. 3. *The Department shall add a nonrefundable technology fee of \$1 to the existing fee for any transaction performed by the Department for which a fee is charged. The technology fee must be ~~deposited in the Revolving Account for System Modernization created by section 2 of this act,~~ used to pay the expenses associated with implementing, upgrading and maintaining the platform of information technology used by the Department.*

Sec. 4. NRS 481.079 is hereby amended to read as follows:

481.079 1. Except as otherwise provided by *section 3 of this act or any other specific statute*, all taxes, license fees and money collected by the Department must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund.

2. If a check or any other method of payment accepted by the Department in payment of such fees is returned to the Department or otherwise dishonored upon presentation for payment:

(a) The drawer or any other person responsible for payment of the fee is subject to a fee in the amount established by the State Controller pursuant to NRS 353C.115 in addition to any other penalties provided by law; and

(b) The Department may require that future payments from the person be made by cashier's check, money order, traveler's check or cash.

3. The Department may adjust the amount of a deposit made with the State Treasurer to the credit of the Motor Vehicle Fund for any cash shortage or overage resulting from the collection of fees.

Sec. 5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
➔ must be deposited in the State Highway Fund and must, except for costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

4. Costs ~~Except as otherwise provided in section 2 of this act, costs~~ of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed ~~{22}~~ 27 percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his or her warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) Must not be used for any costs of administration or to purchase any equipment.

Sec. 6. [There is hereby appropriated from the State Highway Fund to the Revolving Account for System Modernization created by section 2 of this act the sum of \$40,536,613 for upgrading the current platform of information technology used by the Department of Motor Vehicles.] (Deleted by amendment.)

Sec. 6.5. [Upon determining that sufficient resources are available to enable the Department of Motor Vehicles to carry out the provisions of section 3 of this act, the Director of the Department shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish on the Internet website of the Department notice to the public of that fact.] (Deleted by amendment.)

Sec. 7. ~~[1.] This [section and sections 1, 2 and 4 to 6.5, inclusive, of this] act [become] becomes effective on July 1, 2015.~~

~~2. Section 3 of this act becomes effective on the date on which the Department of Motor Vehicles publishes on its Internet website the notice required pursuant to section 6.5 of this act.] , and expires by limitation on June 30, 2020.~~

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

This amendment adds a sunset to the implementation of the \$1 technology fee that is included in the bill, upon the lack of need for that fee based on the technology project that it is supposed to fund. It amends the administrative cap that is allowed to be used out of the Highway Fund for administrative purposes to 27 percent.

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 12:31 p.m.

SENATE IN SESSION

At 4:57 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 221, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BECKY HARRIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 513, 514, 515; Assembly Bill No. 484, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Assembly Bill No. 474, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BEN KIECKHEFER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 135, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PETE GOICOECHEA, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

GREG BROWER, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Assembly Bill No. 77, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DONALD G. GUSTAVSON, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 79, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL ROBERSON, *Chair*

Mr. President:

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of Amendment No. 1045 to Senate Bill No. 266.

JAMES A. SETTELMAYER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bill No. 221 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Senator Brower moved that Senate Bill No. 512 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 514 be taken from the General File and placed on the General File for the next legislative day.

Motion called.

Senator Roberson moved that Senate Bill No. 111 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 79.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 954.

SUMMARY—~~[Provides for the regulation and taxation of liquid nicotine.]~~
Revises provisions governing the taxation of alternative nicotine products and vapor products. (BDR 32-307)

AN ACT relating to ~~[nicotine products; providing for the regulation and taxation of liquid nicotine; providing penalties.]~~ taxation; distinguishing alternative nicotine products and vapor products from other tobacco products for purposes of regulations and taxation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Taxation to regulate and collect a tax on cigarettes and other tobacco products. (Chapter 370 of NRS) ~~[This]~~ Sections 1.3, 1.7, 4.5, 6 and 8 of this bill ~~[provides for the regulation and taxation of liquid nicotine. This]~~ provide that certain alternative nicotine products and vapor products are not regulated and taxed as other tobacco products. Sections 8-16 and 18 of this bill further ~~[revises]~~ revise provisions governing the regulation and taxation of cigarettes and other tobacco products to clarify that the undefined term "product made from tobacco, other than cigarettes" is synonymous with the defined term "other tobacco product" by replacing each instance of the former term with the latter throughout the provisions governing the regulation and taxation of cigarettes and other tobacco products.

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto ~~the new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. ~~["Liquid"]~~ Alternative nicotine ~~[""]~~ product" means any ~~liquid or other solution containing any form of nicotine, including, without limitation, any salt or complex thereof, regardless of whether the nicotine is naturally or synthetically derived.~~ noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not include:

- 1. A vapor product;*
- 2. A product made or derived from tobacco; or*
- 3. Any product regulated by the United States Food and Drug Administration under subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 351 et seq.*

Sec. 1.7. "Vapor product":

1. Means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine in a solution or other form.

2. Includes, without limitation:

(a) An electronic cigarette, cigar, cigarillo or pipe or a similar product or device; and

(b) A vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo or pipe or a similar product or device.

3. Does not include any product regulated by the United States Food and Drug Administration pursuant to subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 351 et seq.

Sec. 2. NRS 370.001 is hereby amended to read as follows:

370.001 As used in NRS 370.001 to 370.430, inclusive, ~~and *section 1.3* of this act,~~ and 370.505 to 370.530, inclusive, unless the context otherwise requires, the words and terms defined in NRS 370.005 to 370.055, inclusive, ~~and *section 1.7* of this act~~ have the meanings ascribed to them in those sections.

Sec. 3. ~~NRS 370.025 is hereby amended to read as follows:~~

~~370.025 "Contraband tobacco products" means any:~~

- ~~1. Counterfeit cigarettes;~~
- ~~2. Other counterfeit tobacco product;~~
- ~~3. Cigarettes or "roll your own" tobacco offered for sale in this State by a manufacturer, or cigarettes or "roll your own" tobacco of a brand family, that is not listed in the directory created pursuant to NRS 370.675;~~
- ~~4. Cigarettes bearing a tribal stamp issued by the Department which are sold or offered for sale at a retail location that is not located on qualified tribal land; or~~

~~5. Cigarettes, [or] other tobacco product [.] or liquid nicotine;~~

~~(a) Exported from or imported into this State, or mailed, shipped, delivered, sold, exchanged, transported, distributed or held for distribution within the borders of this State by any person in violation of any of the provisions of this chapter;~~

~~(b) In any way held in the possession or constructive possession of any person not authorized under this chapter to possess or constructively possess the cigarettes, [or] other tobacco product [.] or liquid nicotine; or~~

~~(c) Being offered for sale in any form other than in an unopened package in violation of subsection 1 of NRS 202.2493.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 370.0317 is hereby amended to read as follows:~~

~~370.0317 "Other counterfeit tobacco product" means any other tobacco product, liquid nicotine or tobacco product package bearing a false manufacturing label.] (Deleted by amendment.)~~

Sec. 4.5. NRS 370.0318 is hereby amended to read as follows:

370.0318 "Other tobacco product" means any tobacco of any description or any product made from tobacco, other than cigarettes ~~[.]~~, alternative nicotine products and vapor products.

Sec. 5. ~~[NRS 370.052 is hereby amended to read as follows:~~

~~370.052 "Tobacco product package" means the individual pack, box or other container that contains any other tobacco product [.] or liquid nicotine. The term does not include a container that itself contains other containers.] (Deleted by amendment.)~~

Sec. 6. NRS 370.085 is hereby amended to read as follows:

370.085 The Department shall create and maintain on its Internet website and otherwise make available for public inspection a list of all:

1. Currently valid licenses and the identity of the licensees holding those licenses; and

2. Indian tribes on whose reservations or colonies cigarettes ~~for~~ or other tobacco products ~~[made from tobacco] are for liquid nicotine is~~ sold and, pursuant to NRS 370.515, from which the Department does not collect the tax imposed by this chapter on such cigarettes ~~for~~ or other tobacco products ~~[made from tobacco or liquid nicotine]~~ sold on the reservations or colonies.

↪ The Department shall update the list at least once each month.

Sec. 7. ~~[NRS 370.415 is hereby amended to read as follows:~~

~~370.415 1. The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada shall seize any counterfeit stamps and any contraband tobacco products and machinery used to manufacture contraband tobacco products, found or located in the State of Nevada.~~

~~2. A sheriff or other peace officer who seizes stamps, contraband tobacco products or machinery pursuant to this section shall provide written notification of the seizure to the Department not later than 5 working days after the seizure. The notification must include the reason for the seizure.~~

~~3. After consultation with the Department, the sheriff or other peace officer shall transmit the contraband tobacco products to the Department if:~~

~~(a) The contraband tobacco products consist of cigarettes and:~~

~~(1) Except for revenue stamps or metered machine impressions being properly affixed as required by this chapter, the cigarettes comply with all state and federal statutes and regulations; and~~

~~(2) The Department approves the transmission of the cigarettes; or~~

~~(b) The contraband tobacco products consist of any other tobacco products or liquid nicotine and the Department approves the transmission of the other tobacco products [.] or liquid nicotine.~~

~~4. Upon the receipt of any:~~

~~(a) Cigarettes pursuant to subsection 3, the Department shall dispose of the cigarettes as provided in subsection 4 of NRS 370.270; or~~

~~(b) Other tobacco products or liquid nicotine pursuant to subsection 3, the Department shall:~~

~~(1) Sell the other tobacco products or liquid nicotine to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or~~

~~(2) If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products or liquid nicotine is insufficient, or for any other reason such disposition would be impractical, destroy or dispose of the other tobacco products or liquid nicotine as the Department may see fit.~~

~~➤ The proceeds of all sales pursuant to this paragraph must be classed as revenues derived under the provisions of NRS 370.440 to 370.503, inclusive.~~

~~5. The sheriff or other peace officer who seizes any stamps, contraband tobacco products or machinery pursuant to this section shall:~~

~~(a) Destroy the stamps and machinery; and~~

~~(b) If he or she does not transmit the contraband tobacco products to the Department, destroy the contraband tobacco products.] (Deleted by amendment.)~~

Sec. 8. NRS 370.440 is hereby amended to read as follows:

370.440 As used in NRS 370.440 to 370.503, inclusive, unless the context otherwise requires:

1. ~~["Liquid"]~~ *"Alternative nicotine ["] product"* has the meaning ascribed to it in section ~~1.3~~ *1.3* of this act.

2. *"Other tobacco product"* has the meaning ascribed to it in NRS 370.0318.

3. *"Retail dealer"* means any person who is engaged in selling *other tobacco products* ~~[made from tobacco, other than cigarettes, to customers.~~

~~2. or liquid nicotine.]~~

4. *"Sale"* means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of *other tobacco products* ~~[made from tobacco, other than cigarettes.~~

~~3. or liquid nicotine.]~~

5. "Ultimate consumer" means a person who purchases ~~[a an other tobacco product made from tobacco, other than cigarettes, or liquid nicotine]~~ one or more other tobacco products for his or her household or personal use and not for resale.

~~[4.]~~ 6. "Wholesale dealer" means any person who:

(a) Brings or causes to be brought into this State *other tobacco* products ~~[made from tobacco, other than cigarettes, or liquid nicotine]~~ purchased from the manufacturer or a wholesale dealer and who stores, sells or otherwise disposes of ~~[those]~~ *such other tobacco* products ~~for liquid nicotine]~~ within this State;

(b) Manufactures or produces *other tobacco* products ~~[made from tobacco, other than cigarettes, or liquid nicotine]~~ within this State and who sells or distributes ~~[those]~~ *such other tobacco* products ~~for liquid nicotine]~~ within this State to other wholesale dealers, retail dealers or ultimate consumers; or

(c) Purchases *other tobacco* products ~~[made from tobacco, other than cigarettes, or liquid nicotine]~~ solely for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only.

~~[5.]~~ 7. "Wholesale price" means:

(a) Except as otherwise provided in paragraph (b), the established price for which ~~[a an other tobacco product made from tobacco, other than cigarettes, or liquid nicotine is]~~ other tobacco products are sold to a wholesale dealer before any discount or other reduction is made.

(b) For ~~[a an other tobacco product made from tobacco, other than cigarettes, or liquid nicotine]~~ other tobacco products sold to a retail dealer or an ultimate consumer by a wholesale dealer described in paragraph (b) of subsection ~~[4.]~~ 6, the established price for which the *other tobacco* product ~~for liquid nicotine]~~ is sold to the retail dealer or ultimate consumer before any discount or other reduction is made.

Sec. 9. NRS 370.450 is hereby amended to read as follows:

370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of *other tobacco* products ~~[made from tobacco, other than cigarettes, and liquid nicotine]~~ by a customer in this State a tax of 30 percent of the wholesale price of those ~~[such other tobacco]~~ products, ~~and liquid nicotine.]~~

2. The provisions of subsection 1 do not apply to those ~~[other tobacco]~~ products ~~for liquid nicotine]~~ which are: ~~[is:]~~

(a) Shipped out of the State for sale and use outside the State;

(b) Displayed or exhibited at a trade show, convention or other exhibition in this State by a manufacturer or wholesale dealer who is not licensed in this State; or

(c) Acquired free of charge at a trade show, convention or other exhibition or public event in this State, and which do not have significant value as determined by the Department by regulation.

3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of ~~[those]~~ *the other tobacco* products ~~for liquid nicotine~~ by the wholesale dealer. The wholesale dealer is entitled to retain 0.25 percent of the taxes collected to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.

4. Any wholesale dealer who sells or distributes ~~any of those~~ *other tobacco* products ~~for liquid nicotine~~ without paying the tax provided for by this section is guilty of a misdemeanor.

Sec. 10. NRS 370.460 is hereby amended to read as follows:

370.460 It is unlawful for any person to sell or offer to sell ~~any~~ *other tobacco* products ~~made from tobacco, other than cigarettes, or liquid nicotine~~ on which the tax is not paid as provided for in NRS 370.450.

Sec. 11. NRS 370.465 is hereby amended to read as follows:

370.465 1. A wholesale dealer shall, not later than 20 days after the end of each month, submit to the Department a report on a form prescribed by the Department setting forth each sale of *other tobacco* products ~~made from tobacco, other than cigarettes, or liquid nicotine~~ that the wholesale dealer made during the previous month.

2. Each report submitted pursuant to this section on or after August 20, 2001, must be accompanied by the tax owed pursuant to NRS 370.450 for *other tobacco* products ~~made from tobacco, other than cigarettes, and liquid nicotine~~ that were sold by the wholesale dealer during the previous month.

3. The Department may impose a penalty on a wholesale dealer who violates any of the provisions of this section as follows:

(a) For the first violation within 7 years, a fine of \$1,000.

(b) For a second violation within 7 years, a fine of \$5,000.

(c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.

Sec. 12. NRS 370.470 is hereby amended to read as follows:

370.470 A wholesale dealer must obtain from each manufacturer or wholesale dealer who is not licensed in this State itemized invoices of all *other tobacco* products ~~made from tobacco, other than cigarettes, and liquid nicotine~~ purchased from and delivered by the manufacturer or wholesale dealer who is not licensed in this State. The wholesale dealer must obtain from the manufacturer or wholesale dealer who is not licensed in this State separate invoices for each purchase made. The invoice must include:

1. The name and address of the manufacturer or wholesale dealer who is not licensed in this State;

2. The name and address of the wholesale dealer;

3. The date of the purchase; and

4. The quantity and wholesale price of ~~those~~ *the other tobacco* products ~~and liquid nicotine.~~

Sec. 13. NRS 370.480 is hereby amended to read as follows:

370.480 1. Every wholesale dealer must keep at its place of business complete and accurate records for that place of business, including copies of all invoices of *other tobacco* products ~~[made from tobacco, other than cigarettes, and liquid nicotine]~~ which the wholesale dealer holds, purchases and delivers, distributes or sells in this State. All records must be preserved for at least 3 years after the date of purchase or after the date of the last entry made on the record.

2. Every retail dealer shall keep at its place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of ~~[such]~~ *other tobacco* products ~~[and liquid nicotine]~~ purchased and delivered from wholesale dealers. The invoices must show the name and address of the wholesale dealer and the date of the purchase. All records must be preserved for at least 3 years after the date of the purchase.

Sec. 14. NRS 370.490 is hereby amended to read as follows:

370.490 1. The Department shall allow a credit of 30 percent of the wholesale price, less a discount of 0.25 percent for the services rendered in collecting the tax, for *other tobacco* products ~~[made from tobacco, other than cigarettes, upon and liquid nicotine]~~ on which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. If the *other tobacco* products have ~~[or liquid nicotine has]~~ been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.

2. A credit must also be granted for any *other tobacco* products ~~[made from tobacco, other than cigarettes, or liquid nicotine]~~ shipped from this State and destined for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.

3. A wholesale dealer may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.

Sec. 15. NRS 370.501 is hereby amended to read as follows:

370.501 1. The governing body of an Indian reservation or Indian colony may impose an excise tax on any *other tobacco* product ~~[made from tobacco, other than cigarettes, or liquid nicotine]~~ sold on the reservation or colony.

2. If an excise tax is imposed, the governing body may establish procedures for collecting the excise tax from any retail dealer authorized to do business on the reservation or colony.

Sec. 16. NRS 370.503 is hereby amended to read as follows:

370.503 1. Upon proof satisfactory to the Department and subject to the requirements of NRS 360.236, a refund must be allowed for the taxes paid pursuant to NRS 370.450 ~~[, upon]~~ on *other tobacco* products ~~[made from tobacco other than cigarettes, and liquid nicotine]~~ that are sold to:

(a) The United States Government for the purposes of the Army, Air Force, Navy or Marine Corps and are shipped to a point within this State to a

place which has been lawfully ceded to the United States Government for the purposes of the Army, Air Force, Navy or Marine Corps;

(b) Veterans' hospitals for distribution or sale to service personnel with disabilities or ex-service personnel with disabilities interned therein, but not to civilians or civilian employees;

(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to NRS 370.501; or

(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to NRS 370.501.

2. Any refund must be paid as other claims against the State are paid.

Sec. 17. ~~[NRS 370.505 is hereby amended to read as follows:~~

~~370.505 1. A retail dealer shall pay a wholesale dealer for all cigarettes [and] other tobacco products and liquid nicotine purchased from the wholesale dealer.~~

~~(a) If the cigarettes, [or] other tobacco products [were] or liquid nicotine was delivered to the retail dealer on or after the 1st day of the month but before the 16th day of the month, on or before the 29th day of the same month; and~~

~~(b) If the cigarettes or other tobacco products were delivered to the retail dealer on or after the 16th day of the month but before the 1st day of the next month, on or before the 14th day of the next month.~~

~~2. A wholesale dealer shall not extend credit or otherwise allow a retail dealer to violate the provisions of subsection 1.~~

~~3. The Department may impose a penalty on a wholesale dealer who violates the provisions of subsection 2 as follows:~~

~~(a) For the first violation, a penalty of \$500.~~

~~(b) For a second or subsequent violation, if paragraph (c) does not apply, a penalty of \$1,000.~~

~~(c) For a third or subsequent violation within any 12 month period, a penalty of \$5,000 or suspension or revocation of the license of the wholesale dealer, or both.~~

~~4. Pursuant to a written complaint or upon its own motion, the Department shall investigate an alleged violation of subsection 2. The Department shall give notice to the alleged violator and conduct a hearing, if warranted by the investigation. The Department may assess a penalty pursuant to subsection 3, if it determines that the wholesale dealer violated the provisions of subsection 2.] (Deleted by amendment.)~~

Sec. 18. NRS 370.515 is hereby amended to read as follows:

370.515 The Department shall not collect the tax imposed by this chapter on cigarettes ~~for~~ or other tobacco products ~~made from tobacco or liquid nicotine~~ sold on an Indian reservation or Indian colony if:

1. The governing body of the reservation or colony imposes an excise tax pursuant to NRS 370.0751 or 370.501;

2. The excise tax imposed is equal to or greater than the tax imposed pursuant to this chapter; and

3. The governing body of the colony or reservation submits a copy of the ordinance imposing the excise tax to the Department.

Sec. 19. This act becomes effective on July 1, 2015.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

Amendment No. 954 to Senate Bill No. 79 deletes the provisions of the bill that provide for the regulation and taxation of liquid nicotine in a manner consistent with other tobacco products under current law. The definition of other tobacco products is changed to clarify that the term does not include an alternative nicotine product or a vapor product as those terms are defined pursuant to the amendment.

The amendment establishes that a vapor product is not taxable as another tobacco products regardless of whether or not the nicotine in the product is derived from tobacco. The amendment further establishes when an alternative nicotine product that is made or derived from tobacco is considered to be another tobacco product and is subject to regulation and taxation in a manner consistent with other tobacco products.

Finally, the amendment clarifies that any alternative nicotine product or vapor product that is regulated by the United States Food and Drug Administration under certain provisions, are excluded from the definitions of those terms.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 92.

Bill read third time.

Remarks by Senators Hammond and Roberson.

SENATOR HAMMOND:

Senate Bill No. 92 provides procedures for the designation as a turnaround school, a public school determined by the Department of Education to be underperforming. Specifically, the bill: requires the State Board of Education to establish by regulation the criteria for designating a school as underperforming and prescribes procedures for the management of such a school; provides for the transfer of ineffective or minimally effective personnel from an underperforming school; requires the creation of incentives for employees working in an underperforming school, which may include incentives related to pay, scheduling, training or promotion; requires the evaluation of a teacher or administrator at an underperforming school not be adversely impacted by student achievement data for two years after the school has been so designated; prescribes a process for principals or school boards to reassign staff to or from an underperforming school; requires that reduction-in-force decisions be based upon employee performance and that further reductions consider other factors before seniority, unless a teacher works in a subject area for which there is a shortage of teachers; and directs the Legislative Counsel to reorganize Title 34, Education, of the *Nevada Revised Statutes*.

This has been one of the best pieces of legislation we have looked at this year so far. As many of the education pieces that I have touched personally, this is going to be a great bill, and I appreciate all the work that went into it during the long time that we had to process it. It came to us a little bit late so I appreciate everybody's vote on this.

SENATOR ROBERSON:

I would like to especially thank Senator Harris for all the work she did on this bill.

Roll call on Senate Bill No. 92:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 92 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 266.

Bill read third time.

The following amendment was proposed by Senator Lipparelli:

Amendment No. 1045.

SUMMARY—Revises provisions relating to the tax on live entertainment. (BDR 32-720)

AN ACT relating to taxation; revising provisions relating to the rate, imposition and calculation of the tax on live entertainment; revising provisions governing the exemptions and exclusions from the tax on live entertainment; revising provisions governing the distribution of certain proceeds of the tax on live entertainment; revising various provisions relating to the tax on live entertainment; revising provisions governing investigations and the initiation of complaints by the State Gaming Control Board for violations relating to the tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) Under existing law, if live entertainment is provided at an establishment that is not a licensed gaming establishment or certain smaller licensed gaming establishments, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided. However, if live entertainment is provided at certain larger licensed gaming establishments, the tax is imposed whenever live entertainment is provided, regardless of whether consideration is collected for admission to the area or premises where the live entertainment is provided. (NRS 368A.060) Section 1.5 of this bill revises these provisions to provide that, regardless of whether live entertainment is provided at a gaming establishment, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided.

Under existing law, the rate and imposition of the tax depends upon the size of the facility in which the live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility. If the live entertainment is provided at a facility with a maximum occupancy of at least 7,500 persons, the rate of the

tax is 5 percent of the admission charge to the facility. (NRS 368A.200) Section 3 of this bill revises the rate of the tax to provide that: (1) the rate of the tax is 9 percent of the admission charge to a facility where live entertainment is provided; and (2) the tax is not imposed on amounts paid for food, refreshments and merchandise. Sections 1.03, 1.07, 1.5, 2, 2.1, 3 and 3.2 of this bill provide that the tax applies to escorts and escort services and that the rate of the tax is 9 percent of the total amount of consideration paid for the escort or escort service.

Under existing law, the "admission charge" on which the tax is based is defined as the total amount of consideration paid for the right or privilege to enter, or have access to, a facility where live entertainment is provided. (NRS 368A.010) Section 1.4 of this bill revises this definition to specifically include in the tax membership fees, certain service charges and any other charge that is required to be paid in connection with admission to a facility where live entertainment is provided. Section 1.4 also excludes from the tax: (1) the value of certain admissions provided to a patron on a complimentary basis; (2) a charge for access to a table, seat or lounge or for food, beverages or merchandise that are in addition to the charge for admission to the facility; and (3) certain license and rental fees for luxury suites, boxes or other similar products at a facility with a maximum occupancy of more than 7,500 persons.

Existing law excludes certain activities from the tax on admission to facilities where live entertainment is provided. (NRS 368A.090, 368A.200) Sections 2 and 3 of this bill remove certain exclusions and, thus, pursuant to section 1.5, these activities would be subject to the tax on live entertainment if they constitute live entertainment and consideration is collected for admission to the facility where the activity is provided. Sections 2 and 3 also add provisions that exclude the following from the tax: (1) certain uncompensated, spontaneous performances; (2) activities that do not constitute a performance, including, without limitation, go-go dancing; (3) certain marketing or promotional activities that are associated with the serving of food and beverages; (4) live entertainment provided by the Nevada Interscholastic Activities Association or by certain schools if only pupils or faculty provide the entertainment; (5) athletic events provided by institutions of the Nevada System of Higher Education, if students of such an institution are contestants in the event; and (6) an athletic event conducted by a professional team based in this State if that team is a participant in the event. Finally, under section 3, the exclusion from the tax for race events at a race track in this State as a part of the National Association for Stock Car Racing (NASCAR) Sprint Cup Series is modified to apply only if two NASCAR races are held at the race track.

Section 2.5 of this bill sets forth a procedure by which the Nevada Gaming Commission and the Nevada Tax Commission, as applicable, may determine

the amount upon which the tax on live entertainment is based under certain circumstances when that amount is not capable of reasonable determination.

Under existing law, live entertainment provided by certain nonprofit organizations is exempt from the tax on live entertainment. (NRS 368A.200) Section 3 provides that this exemption applies only if the number of tickets to the live entertainment provided by the nonprofit organization which are offered for sale or other distribution to patrons is less than 7,500. Thus, under section 3, the tax on live entertainment applies to any live entertainment provided by a nonprofit organization for which 7,500 or more tickets are offered for sale or other distribution to patrons.

Existing law requires the State Gaming Control Board and the Department of Taxation to deposit all taxes, interest and penalties they receive from the tax on live entertainment in the State Treasury for credit to the State General Fund. (NRS 368A.240) Section 3.1 of this bill requires the Department of Taxation, on or before October 1 of each year, to deposit \$150,000 from the taxes, interest and penalties it receives from the tax on live entertainment, for credit to the Nevada Arts Council which is a division of the Department of Tourism and Cultural Affairs. Under section 3.1, this money is authorized for expenditure by the Nevada Arts Council as a continuing appropriation.

Existing law requires the State Gaming Control Board to make investigations and to initiate a hearing by filing a complaint with the Nevada Gaming Commission if the Board is satisfied that a person or entity which is licensed, registered, found suitable or found preliminarily suitable or which previously obtained approval for an activity for which Commission approval was required or permitted should be limited, conditioned, suspended, revoked or fined. (NRS 463.310) Section 5 of this bill similarly requires the Board to make investigations and to initiate a hearing by filing a complaint with the Commission if the Board is satisfied that such a person or entity has violated certain provisions relating to the tax on live entertainment.

Existing law also: (1) requires a licensed gaming establishment to maintain records relating to, report, pay and truthfully account for the tax on live entertainment; and (2) prohibits certain practices relating to falsifying information or books, records or accounts relating to the tax on live entertainment. (NRS 368A.160, 368A.350, 368A.360) Section 4 of this bill provides that a violation of such provisions by a licensed gaming establishment is an unsuitable method of operation and is subject to investigation and disciplinary proceedings by the Board and the Commission.

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

Section 1. Chapter 368A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.03 and 1.07 of this act.

Sec. 1.03. 1. *"Escort" means a person who, for monetary consideration, in the form of a fee, commission or salary, dates, socializes, visits, consorts with or accompanies, or offers to date, socialize, visit,*

consort with or accompany, another or others to or about social affairs, entertainments or places of amusement or within any place of public resort or within any private quarters. The term does not include a person who advertises, or works as an employee, agent or independent contractor for a person who advertises, that sexual conduct will be provided to a patron, or who solicits, offers to provide or provides acts of sexual conduct to a patron.

2. As used in this section, "sexual conduct" means sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

Sec. 1.07. 1. "Escort service" means a person who, for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer an escort to a patron, offers to introduce a patron to an escort, or who provides an escort to a patron. The term does not include a person who advertises that an escort will provide sexual conduct to a patron or who solicits, offers to provide or provides acts of sexual conduct to a patron.

2. As used in this section, "sexual conduct" has the meaning ascribed to it in section 1.03 of this act.

Sec. 1.3. NRS 368A.010 is hereby amended to read as follows:

368A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, and sections 1.03 and 1.07 of this act have the meanings ascribed to them in those sections.

Sec. 1.4. NRS 368A.020 is hereby amended to read as follows:

368A.020 ~~["Admission]~~

1. Except as otherwise provided in this section, "admission charge" means the total amount, expressed in terms of money, of consideration paid for the right or privilege to enter or have access to a facility where live entertainment is provided. ~~[The]~~

2. Except as otherwise provided in this section or NRS 368A.200 or any other specific statute, the term includes, without limitation, an entertainment fee, a cover charge, ~~a table reservation fee, or~~ a required minimum purchase of food, ~~refreshments~~ beverages or merchandise ~~[-]~~, a membership fee and a service charge or any other fee or charge that is required to be paid in exchange for admission to a facility where live entertainment is provided.

3. The term does not include:

(a) The value of an admission to a facility provided to a patron on a complimentary basis, unless the complimentary admission is associated with a separate purchase that is required for the patron to enter or have access to the facility; or

(b) A charge for the right or privilege of entering, or having access to, a particular portion within a facility, that is in addition to a charge described in subsection 1 or 2, including, without limitation, a charge for:

(1) Food, beverages or merchandise that is in addition to a required minimum purchase of food, beverages or merchandise as described in subsection 2; or

(2) Access to tables, seats, lounge chairs or particular areas near a swimming pool.

4. Except as otherwise provided in this subsection, the term does not include license or rental fees for luxury suites, boxes or similar products at facilities with a maximum occupancy of at least 7,500 persons. If the license or rental fee includes the admission of a certain number of patrons to a facility where a live entertainment event is provided, the admission charge is an amount equal to the lowest priced admission charge for the live entertainment event multiplied by the number of admissions to the live entertainment event included in the license or rental fee.

Sec. 1.5. NRS 368A.060 is hereby amended to read as follows:

368A.060 ~~[1.]~~ "Facility" means ~~[-~~

~~—(a) Any~~ any area or premises, indoor or outdoor, where live entertainment is provided and for which consideration is collected for the right or privilege of entering, or having access to, that area or those premises. ~~[if the live entertainment is provided at:~~

~~—(1) An establishment that is not a licensed gaming establishment; or~~

~~—(2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits.~~

~~—(b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.~~

~~2. "Facility" encompasses, if live entertainment is provided at a licensed gaming establishment that is licensed for:~~

~~—(a) Less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, any area or premises where the live entertainment is provided and for which consideration is collected, from one or more patrons, for the right or privilege of entering that area or those premises, even if additional consideration is collected for the right or privilege of entering a smaller venue within that area or those premises; or~~

~~—(b) At least 51 slot machines or at least 6 games, any designated area on the premises of the licensed gaming establishment within which the live entertainment is provided.]~~

Sec. 2. NRS 368A.090 is hereby amended to read as follows:

368A.090 1. "Live entertainment" means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.

2. The term:

(a) Includes, without limitation, any one or more of the following activities:

(1) Music or vocals provided by one or more professional or amateur musicians or vocalists;

(2) Dancing performed by one or more professional or amateur dancers or performers ~~{}}, including, without limitation, dancing performed by one or more persons who are nude or partially nude;~~

(3) Acting or drama provided by one or more professional or amateur actors or players;

(4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

(5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph ~~{{(7)}} (3)~~ of paragraph (b);

(6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes, sportsmen or sportswomen;

(7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

(8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; ~~{and}~~

(9) A performance ~~[involving one or more of the activities described in this paragraph]~~ by a disc jockey who presents recorded music ~~[- For the purposes of this subparagraph, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his or her interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.]; and~~

(10) *An escort who is escorting one or more persons at a location or locations in this State.*

(b) ~~{Excludes,}~~ *Except as otherwise provided in subsection 3, excludes,* without limitation, any one or more of the following activities:

(1) ~~{Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;~~

~~—(2) Occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;~~

~~—(3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than~~

~~6 games, or any combination of slot machines and games within those respective limits, as long as the performers stroll continuously throughout the facility;~~

~~— (4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;~~

~~— (5) Television, radio, closed circuit or Internet broadcasts of live entertainment;~~

~~{{(6)}} (2) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons;~~

~~{{(7)}} (3) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research [; and~~

~~— (8) An occasional activity, including, without limitation, dancing, that:~~

~~— (I) Does not constitute a performance;~~

~~— (II) Is not advertised as entertainment to the public;~~

~~— (III) Primarily serves to provide ambience to the facility; and~~

~~— (IV) Is conducted by an employee whose primary job function is not that of an entertainer.];~~

(4) An activity that is an uncompensated, spontaneous performance that is not longer than 20 minutes during a 60-minute period;

(5) An activity described in subparagraphs (1) to (8) , inclusive, of paragraph (a) that does not constitute a performance, including, without limitation, go-go dancing; or

(6) Marketing or promotional activities, including, without limitation, dancing or singing that is for a period that does not exceed 20 minutes during a 60-minute period and that is associated with the serving of food and beverages.

3. The exclusions set forth in paragraph (b) of subsection 2 do not apply to an activity provided by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, when the number of tickets to the activity offered for sale or other distribution is 15,000 or more.

4. As used in this section, "person who is nude or partially nude" means a natural person with any of the following less than completely or opaquely covered:

(a) His or her genitals;

(b) The pubic region; or

(c) A female breast below a point immediately above the top of the areola.

Sec. 2.1. NRS 368A.110 is hereby amended to read as follows:

368A.110 "Taxpayer" means:

1. ~~[(1)]~~ Except as otherwise provided in subsection 4, if live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

2. Except as otherwise provided in ~~[subsection]~~ subsections 3 ~~[(3)]~~ and 4, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.

3. ~~[(2)]~~ Except as otherwise provided in subsection 4, if live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person who collects the taxable receipts.

4. If live entertainment that is taxable under this chapter is provided by an escort, the escort or, if the escort works as an employee, agent or independent contractor for an escort service, the owner or operator of the escort service.

Sec. 2.5. NRS 368A.150 is hereby amended to read as follows:

368A.150 1. If:

(a) The Board determines that a taxpayer who is a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Board shall establish an amount upon which the tax imposed by this chapter must be based.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Department shall establish an amount upon which the tax imposed by this chapter must be based.

2. The amount established by the Board or the Department pursuant to subsection 1 must be based upon the tax liability of business entities that are deemed comparable by the Board or the Department to that of the taxpayer.

3. If:

(a) The Board determines that a taxpayer who is a licensed gaming establishment is liable for the tax imposed by this chapter but the amount upon which the tax must be based is vague or subjective, not capable of reasonable determination or is the subject of a dispute that cannot be proven to the reasonable satisfaction of the Nevada Gaming Commission, the Nevada Gaming Commission may establish the amount upon which the tax must be based by multiplying the number of admissions to the facility where the live entertainment was provided by an amount not to exceed \$50. The provisions of chapter 463 of NRS relating to the imposition of penalties and interest apply to the determination of the amount of tax owed by the taxpayer pursuant to this section.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is liable for the tax imposed by this chapter but the amount upon which the tax must be based is vague or subjective, not capable of reasonable determination or is the subject of a dispute that cannot be proven to the reasonable satisfaction of the Nevada Tax Commission, the Nevada Tax Commission may establish the amount upon which the tax must be based by multiplying the number of admissions to the facility where the live entertainment was provided by an amount not to exceed \$50. The provisions of chapter 360 of NRS relating to the imposition of penalties and interest apply to the determination of the amount of tax owed by the taxpayer pursuant to this section.

Sec. 3. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided ~~[. If the live entertainment is provided at a facility with a maximum occupancy of:~~

~~—(a) Less than 7,500 persons, the]~~ and on the charge for live entertainment provided by an escort at one or more locations in this State. The rate of the tax is ~~[10]~~ :

(a) Except as otherwise provided in paragraph (b), for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility . ~~[plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.]~~

(b) ~~[At least 7,500 persons, the rate of the tax is 5]~~ For live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State, 9 percent of the ~~[admission charge to the facility.]~~ total amount, expressed in terms of money, of consideration paid for the live entertainment provided by the escort.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section ~~[.]~~ , only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided ~~[or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer]~~ are not taxable pursuant to this section.

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the

admission charge to a facility where live entertainment is provided are not taxable pursuant to this section. As used in this paragraph, "independent financial institution" means a financial institution that is not the taxpayer or an owner or operator of the facility where the live entertainment is provided or an affiliate of any of those persons.

~~3. [A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.~~

~~4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.~~

~~5.] The tax imposed by this section must be added to and collected from the purchaser at the time of purchase, whether or not the admission for live entertainment is purchased for resale. Each ticket for admission to a facility where live entertainment is provided must show on its face the admission charge or the seller of the admission shall prominently display a notice disclosing the admission charge at the box office or other place where the charge is made.~~

4. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) *Live entertainment that is governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only pupils or faculty provide the live entertainment.*

(c) *An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition.*

(d) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS

~~[(e)]~~, *only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.*

(e) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

~~[(d)]~~ (f) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

~~{{(e)}}~~ (g) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

~~{{(f)}}~~ Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.

~~—(g)—~~ (h) Live entertainment that is provided at a trade show.

~~{{(h)}}~~ (i) Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

~~{{(i)}}~~ (j) Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

~~{{(j)}}~~ (k) Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

~~{{(k)}}~~ (l) Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

~~{{(l)}}~~ (m) Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

~~{{(m)}}~~ Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.

~~—(n)—~~ An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.

~~—(o)—~~ Beginning July 1, 2007, race events

(n) A race scheduled at a race track in this State ~~[as a part of]~~ and sanctioned by the National Association for Stock Car Auto Racing ~~[Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~—(p)—~~ Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.

~~—(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~

~~—6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.~~

~~—7.] , if two or more such races are held at that race track during the same calendar year.~~

(o) An athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition.

5. As used in this section, ~~["maximum]~~ :

(a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

(b) "Maximum occupancy" means, in the following order of priority:

~~[(a)]~~ (1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

~~[(b)]~~ (2) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

~~[(c)]~~ (3) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

(c) "Operator" includes, without limitation, a person who operates a facility where live entertainment is provided or who presents, produces or otherwise provides live entertainment.

Sec. 3.1. NRS 368A.220 is hereby amended to read as follows:

368A.220 1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 15th day of each month, a report showing the amount of all taxable receipts for the preceding month or the month in which the taxable events occurred. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by

NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. ~~[The]~~ *Except as otherwise provided in this subsection, the Board and the Department shall deposit all taxes, interest and penalties ~~[it receives]~~ they receive pursuant to this chapter in the State Treasury for credit to the State General Fund. On or before October 1 of each year, the Department shall deposit \$150,000 from the taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the Nevada Arts Council created by NRS 233C.025. The amount deposited in the State Treasury for credit to the Nevada Arts Council pursuant to this subsection is hereby authorized for expenditure by the Nevada Arts Council as a continuing appropriation.*

Sec. 3.2. NRS 368A.240 is hereby amended to read as follows:

368A.240 1. If a taxpayer:

(a) Is unable to collect all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ or charge for live entertainment provided by an escort, which were included in the taxable receipts reported for a previous reporting period; and

(b) Has taken a deduction on his or her federal income tax return pursuant to 26 U.S.C. 166(a) for the amount which the taxpayer is unable to collect,
➡ the taxpayer is entitled to receive a credit for the amount of tax paid on account of that uncollected amount. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

2. If the Internal Revenue Service disallows a deduction described in paragraph (b) of subsection 1 and the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 1, the taxpayer shall include the amount of that credit in the amount of taxes reported pursuant to this chapter in the first return filed with the Board or the Department after the deduction is disallowed.

3. If a taxpayer collects all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ or charge for live entertainment provided by an escort, for which the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 2, the taxpayer shall include:

(a) The amount collected in the charges reported pursuant to paragraph (a) of subsection 1; and

(b) The tax payable on the amount collected in the amount of taxes reported,
➡ in the first return filed with the Board or the Department after that collection.

4. Except as otherwise provided in subsection 5, upon determining that a taxpayer has filed a return which contains one or more violations of the provisions of this section, the Board or the Department shall:

(a) For the first return of any taxpayer that contains one or more violations, issue a letter of warning to the taxpayer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported.

5. For the purposes of subsection 4, if the first violation of this section by any taxpayer was determined by the Board or the Department through an audit which covered more than one return of the taxpayer, the Board or the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection 4.

Sec. 4. NRS 368A.360 is hereby amended to read as follows:

368A.360 1. Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 who willfully fails to report, pay or truthfully account for the tax is subject to the ~~revocation of~~ *investigatory or disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and may have its gaming license revoked* by the Commission.

2. *A violation of any provision of this chapter, or any regulation adopted pursuant thereto, by a licensed gaming establishment is:*

(a) An unsuitable method of operation; and

(b) Subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.

Sec. 4.1. NRS 463.15995 is hereby amended to read as follows:

463.15995 1. The Commission shall, with the advice and assistance of the Board, adopt regulations authorizing a gaming licensee to charge a fee for admission to an area in which gaming is conducted in accordance with the provisions of this section.

2. The regulations adopted by the Commission pursuant to this section must include, without limitation, provisions that:

(a) A gaming licensee may not charge a fee pursuant to this section unless:

(1) The Chair of the Board grants administrative approval of a request by a gaming licensee to charge such a fee; and

(2) Such administrative approval is not revoked or suspended by the Chair of the Board.

(b) The Chair of the Board may, in the Chair's sole and absolute discretion, grant, deny, limit, condition, restrict, revoke or suspend any

administrative approval of a request by a gaming licensee to charge a fee pursuant to this section. In considering such a request, the Chair of the Board shall consider all relevant factors, including, without limitation:

- (1) The size of the area;
- (2) The amount of gaming that occurs within the area;
- (3) The types and quantity of gaming offered;
- (4) The business purpose of the area;
- (5) Other amenities that are offered within the area;
- (6) The amount of the costs and expenses incurred in creating the area;
- (7) The benefit to the State in having gaming conducted within the area;
- (8) The amount of the fee charged and whether the fee charged is unreasonable as compared to the prevailing practice within the industry; and
- (9) Whether the area should more appropriately be treated as a gaming salon.

➤ The decision of the Chair of the Board regarding such a request may be appealed by the gaming licensee to the Commission pursuant to its regulations.

(c) A gaming licensee who charges a fee pursuant to this section:

(1) Shall deposit with the Board and thereafter maintain a refundable revolving fund in an amount determined by the Commission to pay the expenses of admission of agents of the Board or Commission to the area for which a fee for admission is charged.

(2) Shall arrange for access by agents of the Board or Commission to the area for which a fee for admission is charged.

(3) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a non-restricted license has been issued, provide for the public at least the same number of gaming devices and games in a different area for which no fee is charged for admission.

(4) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a restricted license has been issued, post a sign of a suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons that they do not need to pay an admission fee or cover charge to engage in gaming.

(5) Shall not use a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a nongaming activity, attraction or facility.

(6) Shall not restrict admission to the area for which a fee for admission is charged to a patron on the ground of race, color, religion, national origin or disability of the patron, and any unresolved dispute with a patron concerning restriction of admission shall be deemed a dispute as to the manner in which a game is conducted pursuant to NRS 463.362 and must be resolved pursuant to NRS 463.362 to 463.366, inclusive.

(d) If a gaming licensee who holds a non-restricted license charges a fee pursuant to this section, unless the area for which a fee for admission is charged is otherwise subject to the excise tax on admission to any facility in this State where live entertainment is provided pursuant to chapter 368A of NRS, the determination of the amount of the liability of the gaming licensee for that tax:

- (1) Includes the fees charged for admission pursuant to this section; and
- (2) Does not include charges for food, ~~refreshments~~ beverages and merchandise collected in the area for which admission is charged.

Sec. 5. NRS 463.310 is hereby amended to read as follows:

463.310 1. The Board shall make appropriate investigations:

(a) To determine whether there has been any violation of this chapter or chapter 368A, 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.

(b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.

(c) To aid in adopting regulations.

(d) To secure information as a basis for recommending legislation relating to this chapter or chapter 368A, 462, 464, 465 or 466 of NRS.

(e) As directed by the Commission.

2. If, after any investigation the Board is satisfied that:

(a) A license, registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the provisions of this chapter or chapter 462, 464 or 466 of NRS should be limited, conditioned, suspended or revoked; or

(b) A person or entity which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS should be fined,

→ the Board shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

3. Upon receipt of the complaint of the Board, the Commission shall review the complaint and all matter presented in support thereof, and shall conduct further proceedings in accordance with NRS 463.3125 to 463.3145, inclusive.

4. After the provisions of subsections 1, 2 and 3 have been complied with, the Commission may:

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

(b) Limit, condition, suspend or revoke any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license, or prior approval given or granted to any applicant by the Commission;

(c) Order a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay the licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment; and

(d) Fine each person or entity, or both, which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

(1) Not less than \$25,000 and not more than \$250,000 for each separate violation of any regulation adopted pursuant to NRS 463.125 which is the subject of an initial or subsequent complaint; or

(2) Except as otherwise provided in subparagraph (1), not more than \$100,000 for each separate violation of the provisions of this chapter or chapter 368A, 464 or 465 of NRS or of ~~the~~ any regulations ~~of the Commission~~ adopted thereunder, which is the subject of an initial complaint and not more than \$250,000 for each separate violation of the provisions of this chapter or chapter 368A, 464 or 465 of NRS or of ~~the~~ any regulations ~~of the Commission~~ adopted thereunder, which is the subject of any subsequent complaint.

↪ All fines must be paid to the State Treasurer for deposit in the State General Fund.

5. For the second violation of any provision of chapter 465 of NRS by any licensed gaming establishment or individual licensee, the Commission shall revoke the license of the establishment or person.

6. If the Commission limits, conditions, suspends or revokes any license or imposes a fine, or limits, conditions, suspends or revokes any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval, it shall issue its written order therefor after causing to be prepared and filed its written decision upon which the order is based.

7. Any such limitation, condition, revocation, suspension or fine so made is effective until reversed upon judicial review, except that the Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Commission may be had in accordance with NRS 463.315 to 463.318, inclusive.

Sec. 6. Any administrative regulations relating to the tax on live entertainment imposed pursuant to chapter 368A of NRS which were adopted

by the Nevada Tax Commission or the Nevada Gaming Commission before July 1, 2015, and which conflict or are inconsistent with the provisions of this act are void, unless those regulations are amended before July 1, 2015, to be consistent with the provisions of this act.

Sec. 6.5. The provisions of this act apply only to taxable receipts that are collected pursuant to the provisions of chapter 368A of NRS on or after October 1, 2015.

Sec. 7. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act.

2. Section 3.1 of this act becomes effective on July 1, 2015, for all other purposes.

3. Sections 1 to 3, inclusive, and 3.2 to 6.5, inclusive, become effective on October 1, 2015, for all other purposes.

Senator Lipparelli moved the adoption of the amendment.

Remarks by Senator Lipparelli.

Essentially, this amendment provides the Tax Commission and the Nevada Gaming Commission a dispute resolution alternative in cases where the Live Entertainment Tax is not capable of being reasonably determined, is vague or is subject of dispute. Today, under the current scheme, it is an all-or-nothing type decision and this gives the Tax Commission and the Gaming Commission an alternative method to apply a penalty to tax payers who do not properly collect the Live Entertainment Tax.

Amendment adopted.

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

Senate Bill No. 416.

Bill read third time.

Remarks by Senator Hardy.

This bill allows for the remediation and decommissioning of electric generation sites. It also gives help to the citizens of Laughlin and allows for planning to be done for other electric generation sites. It was without the second amendment so it is clean, pure and ready to be commissioned.

Roll call on Senate Bill No. 416:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 416 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 502.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 502 is a budget implementation bill for the Department of Motor Vehicles that does a couple things. It is primarily related to the Department's Technology Investment Program that is going to streamline processing at our DMV office across our State. It imposes a \$1 technology fee that will be included on all transactions for which a fee is charged. That fee

will sunset upon the completion of the technology project. Additionally, it increases to 27 percent the administrative allowance for the DMV under the funds for the Highway Fund.

Roll call on Senate Bill No. 502:

YEAS—18.

NAYS—Gustavson.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 502 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 513.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 513 establishes the State's share of the cost of monthly contributions or premiums for group insurance for each active State officer and employee who elects to participate in the Public Employees' Benefits Program.

For FY 2016 and FY 2017, the monthly State contribution for active employee group insurance is \$701.73 and \$699.25, respectively.

Senate Bill No. 513 also establishes the State's share of the cost of monthly contributions and premiums for group health insurance for retired employee group insurance not eligible for Medicare. For FY 2016 and FY 2017, the monthly State contribution for retired employee group insurance is \$425.57 and \$451.15, respectively.

For Medicare-eligible State retirees, Senate Bill No. 513 establishes a monthly State contribution of \$165 per month in FY 2016 and \$180 per month in FY 2017 for those State employees who retired before January 1, 1994. For those employees who retired on or after January 1, 1994, the monthly State contribution is up to \$220 per month in FY 2016 and up to \$240 in FY 2017.

Finally, Senate Bill No. 513 establishes an exemption to the existing prohibition that no monthly State contribution towards retiree health insurance be provided to individuals initially hired on or after January 1, 2012. The exemption provides that the prohibition does not apply to a person who was employed by the State on or before January 1, 2012, had a break in service and then returned to work for the State at the same or at another State agency. The exemption applies to an employee who is reemployed by the State before, on or after July 1, 2015.

Roll call on Senate Bill No. 513:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 513 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 515.

Bill read third time.

Remarks by Senators Kieckhefer, Goicoechea and Gustavson.

SENATOR KIECKHEFER:

Senate Bill No. 515 appropriates \$1.094 billion in the first year and \$1.102 billion in the second year of the 2015-17 Biennium from the State General Fund to the Distributive School Account (DSA).

In addition, there are \$318.3 million and \$330.1 million of other revenues authorized to be received and expended for the State support of K-12 public education in FY 2016 and FY 2017, respectively. These other revenues include an annual excise tax on slot machines, sales tax collected on out-of-state sales, interest earned on the Permanent School Fund, revenue from mineral leases on federal land, room tax revenues from the legislatively-approved 2009 Initiative Petition, IP 1, and medical marijuana excise taxes.

The statewide average basic support per pupil increases over the upcoming Biennium from \$5,676 in the current year to \$5,710 in FY 2016 and \$5,774 in FY 2017. Enrollment is projected to increase by 1.44 percent from a weighted enrollment of 443,124 pupils in FY 2015 to 449,505 pupils in FY 2016, and increase by 1.25 percent to 455,124 pupils in FY 2017.

State funding for special education continues to be allocated on the basis of special education units. Total funding for the units amounts to \$138.6 million for 3,049 units at \$45,455 in FY 2016 and \$168.1 million for 3,049 units at \$55,141 in FY 2017. As in the past, 40 of those units in each year will be reserved for the State Board of Education to assign to districts that have unexpected needs and to charter schools. If approved, Senate Bill No. 508 would revise the methodology used to distribute funding for students with disabilities from special education units to a per-pupil basis beginning in FY 2017.

For continued support of the Class-Size Reduction (CSR) program, this bill appropriates \$151.1 million in FY 2016 and \$155.2 million in FY 2017 for salaries and benefits of at least 1,950 teachers hired to reduce pupil-teacher ratios in the first year and 1,974 teachers in the second year of the Biennium. The bill continues the CSR program in the DSA, and maintains the separate expenditure category to highlight the program. Funds will be allocated based upon the number of teachers needed in each school district to reach the pupil-teacher ratios of 17 to 1 in first and second grades and 20 to 1 in third grade. The flexibility for school districts to elect to increase class size by up to two students for grades 1 through 3 was not extended and, as such, will sunset June 20, 2015, as approved by the 2013 Legislature.

Section 17 of the bill continues the flexibility for certain school districts to carry out alternative programs for reducing the ratio of pupils per teacher or to implement remedial programs that have been found to be effective in improving pupil achievement. To use the funds in this manner, school districts are required to receive approval of their written plan from the Superintendent of Public Instruction, evaluate the effectiveness of their program and ensure that the combined ratio of pupils per teacher in the aggregate of grades K through 3 does not exceed the combined ratio in those grades in the 2004-05 school year.

This bill appropriates a total of \$65.9 million and \$65.2 million in each year of the 2015-17 Biennium to the Other State Education Programs budget. Through this budget, State General Fund support is provided for programs, including, but not limited to, Educational Technology, Career and Technical Education programs, Local Education Agency Library Books, Public Broadcasting, the National Board Certification reimbursement program for teachers and counselors, the Jobs for America's Graduates and other miscellaneous programs.

The bill continues General Fund appropriations of \$18.3 million in each fiscal year of the upcoming Biennium, respectively, for the support of courses approved by the Department of Education as meeting the course of study for an adult standard high school diploma as approved by the State Board.

The money committees approved the transfer of funding for instructional programs incorporating education technology for Gifted and Talented Education (GATE), with no change in funding amount, from a line item in the DSA to the Other State Education Programs budget.

Additionally, the money committees approved General Fund appropriations of \$5 million each year of the 2015-17 biennium to assist schools in educating students identified as gifted and talented, for a combined total of \$5.2 million in each fiscal year for GATE programs.

The Other State Education Programs budget also includes General Fund support of \$3.3 million in each year of the 2015-17 Biennium for competitive grants to school districts and community-based organizations for early childhood education programs.

New appropriations approved by the money committees for programs in the Other State Education Programs budget include: \$3 million in FY 2016 and \$5 million in FY 2017 for a college and career readiness grant program to support dual enrollment for high school students in college courses and to create a competitive science, technology, engineering and mathematics

grant program; \$5.6 million in FY 2016 for a block grant program to school districts and charter schools to provide for contract social workers or other licensed mental health workers in schools with identified needs with an additional \$11.2 million appropriated in FY 2017 to the Interim Finance Committee for distribution for the same purposes based upon the results of a status report provided by the Department of Education; \$2.5 million in each fiscal year to provide grants and other financial support to public schools receiving the lowest two ratings based on the statewide system of accountability; \$5 million in each fiscal year to recruit persons and charter management organizations to assume leadership roles in the formation and operation of high-quality charter schools to serve pupils who live in poverty. A nonprofit organization that responds to the request for proposals to include evidence that the nonprofit organization has sufficient money to match a grant of up to \$5 million per year for Fiscal Years 2016 and 2017. Also, \$4.9 million in FY 2016 and \$22.3 million in FY 2017 to implement a competitive grant program available to all elementary schools to support literacy programs for pupils enrolled in grades 1-3.

This bill appropriates a total of \$50 million in each year of the 2015-17 Biennium to the Account for Programs for Innovation and the Prevention of Remediation with \$39.4 million in each year for transfer to the Clark County School District, \$7 million in each year for transfer to the Washoe County School District for continuation and expansion of the Zoom School program and \$3.6 million in each year to provide grants of money to the State Public Charter School Authority and to the other 15 school districts for the support of limited English proficient students.

The bill also appropriates \$25 million in each fiscal year to create a new Victory Schools grant program to provide additional services to underperforming elementary, middle and high schools identified as 1 or 2 star schools in the highest poverty zip codes of a school district.

This bill appropriates \$76.1 million and \$97.4 million in FY 2016 and FY 2017, respectively, to the Account for Programs for Innovation and the Prevention of Remediation to continue the expansion of the state-funded Full-Day Kindergarten program in school districts and for the first time in charter schools at a pupil-to-teacher ratio of 21 to 1, inclusive of \$1 million in each year to assist school districts with the purchase of portable classrooms needed to implement the Full-Day Kindergarten program for the 2015-17 Biennium.

The bill further appropriates \$5 million in each fiscal year to the Account for Programs for Innovation and the Prevention of Remediation to provide financial incentives to newly hired teachers.

The bill appropriates a total of \$7.6 million in each fiscal year to the Professional Development Programs budget for the continued support of the 3 Regional Professional Development programs to provide professional development to teachers and administrators.

The bill appropriates \$4.9 million in each fiscal year to a new Great Teaching and Leading Fund for a competitive grant program to invest in high-quality professional development and improve leadership development and the teacher pipeline in the State.

Additionally, the bill appropriates \$5 million in FY 2017 to a new Contingency Account for Special Education to reimburse school districts and charter schools for extraordinary expenses related to the education of students with disabilities.

The bill also appropriates \$2 million in each year of the 2015-17 Biennium to fund the outstanding liability of the cost of the 1/5 retirement credit program in the Grant Fund for Incentives for Licensed Educational Personnel.

Finally, the bill temporarily transfers estimated funding of \$154.7 million and \$159.2 million in FY 2016 and FY 2017, respectively, from the State Supplemental School Support Account to the Distributive School Account as a State funding source for the 2015-17 Biennium.

Mr. President, this is, if you have not been able to tell already, the Education Funding Bill. I know that the explanation was long winded but the amount of time that it took for me to read that is not at all indicative of the amount of work that has gone in to ensuring that we are improving public education in our State. As we go back and talk about what we accomplished this 78th Session, we will all be able to point to this bill as a symbol of what we accomplished and be proud of it.

SENATOR GOICOECHEA:

I have to rise in reluctant opposition. I am afraid that we might not be able to afford what we have in this package. A number of these programs are in my District. They are great programs, but I am afraid it might be a bridge too far. I am not sure that it is affordable at this point. Therefore, I am going to oppose it at this time, reluctantly. Like I said, these are good programs, and we need it, but I am afraid we cannot afford it in one Biennium.

SENATOR GUSTAVSON:

Unfortunately, I also have to rise in opposition to Senate Bill No. 515 for reasons I have stated before. I will be brief and say that there are a lot of programs in there like full-day kindergarten, etc., that 1) we do not have the teaching staff to fill these positions; nor 2) do we have the additional classrooms to provide for these students. I stated before that the same issue is there. Even though I did vote in support of the bill that will give us incentives to bring more qualified teachers here, until that time we do have those highly qualified teachers here to teach these classes and implement these programs, I have to rise in opposition to this bill.

Roll call on Senate Bill No. 515:

YEAS—17.

NAYS—Goicoechea, Gustavson—2.

EXCUSED—Segerblom, Smith—2.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 77 makes various changes related to the Department of Agriculture. The bill revises provisions governing the composition of district boards of agriculture; authorizes the Department to operate a State Fair or regional fair in the State; renames the Nevada Fair of Mineral Industries as the Nevada Mineral Exhibition, and eliminates the requirement that this exhibition be held in Ely; authorizes the Department to control the apiary industry in the State; requires certain farm products sellers to register with the Department as produce vendors; authorizes the State Sealer of Consumer Equitability to, without charging and collecting a fee, conduct random tests of point-of-sale systems and cash registers to determine the accuracy of prices; authorizes the Department to issue licenses for the sale of antifreeze in the State; and replaces criminal penalties related to the control of weeds and the use of pesticides with civil penalties.

The bill is effective upon passage and approval for the purpose of adopting regulations and performing preparatory administrative tasks, and on July 1, 2015, for all other purposes other than other regulations that may be needed for approval.

Roll call on Assembly Bill No. 77:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 77 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 135.

Bill read third time.

Remarks by Senator Atkinson.

Assembly Bill No. 135 requires the Division of State Library and Archives, Department of Administration, to develop and, under certain circumstances, conduct a program of education and training concerning the retention and disposition of official State records for the employees of agencies, boards and commissions that are required to have a schedule approved by the Committee to Approve Schedules for the Retention and Disposition of Official State Records. The head of such an agency, board or commission must: require, under certain circumstances, that certain employees complete the training program; and issue a letter of reprimand to an employee who knowingly and willfully disposes of an official State record in a manner contrary to an approved records retention schedule, or take more severe disciplinary action against such an employee in appropriate circumstances.

This measure is effective upon passage and approval for the purpose of performing preparatory administrative tasks, and on January 1, 2016.

Roll call on Assembly Bill No. 135:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 135 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 474.

Bill read third time.

Remarks by Senator Kieckhefer.

Assembly Bill No. 474 increases the per unit fee paid by homeowners associations to the Real Estate Administrator from a maximum of \$3 to a maximum of \$5 for actual costs of administering the Office of the Ombudsman within the Common Interest Communities Account. It is a budget implementation bill.

Roll call on Assembly Bill No. 474:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 474 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 484.

Bill read third time.

Remarks by Senators Kieckhefer and Settelmeyer.

SENATOR KIECKHEFER:

Assembly Bill No. 484 revises chapter 482 of the *Nevada Revised Statutes* to require the Department of Motor Vehicles to reissue a license plate or plates issued by the Department every eight years. Assembly Bill No. 484 allows for the reissuance of a license plate for a trailer with a three-year registration period at the first renewal of registration that occurs after the existing license plate has been issued for eight years. The bill requires the Department of Motor Vehicles, at the time when a license plate or plates are to be reissued, to include with the notification of registration renewal the amount of any fee to be charged for the reissuance of a license plate or plates.

The bill is effective upon passage and approval for the purpose of issuing redesigned license plates and the fee paid for replacement specialty license plates. The bill is effective on July 1, 2015, 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 July 1, 2016, for all other purposes. And, before I get the question, yes, you get to keep your blue plates.

SENATOR SETTELMAYER:

I appreciate the answer from the Senator from District 16, but let us go one further. Do I get to keep my silver plates which are 1965.

SENATOR KIECKHEFER:

I asked this question of the DMV at the table this afternoon. There is nothing that prohibits you from using and renewing a vintage plate.

Roll call on Assembly Bill No. 484:

YEAS—17.

NAYS—Gustavson, Settelmeyer—2.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 484 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 488.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 488 simply makes technical corrections to two measures passed during the 78th Legislative Session.

Roll call on Assembly Bill No. 488:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

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

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 324.

The following Assembly amendments were read:

Amendment No. 1010.

SUMMARY—Revises provisions concerning the Department of Transportation. (BDR 35-23)

AN ACT relating to the Department of Transportation; authorizing the Director of the Department to issue an encroachment permit for certain discharges onto a state highway, within a right-of-way or into, onto or by way of a conveyance system; providing civil penalties for an unauthorized discharge onto a state highway, within a right-of-way or into, onto or by way of a conveyance system or for a violation of an encroachment permit issued by the Director; creating and setting forth the duties of the Advisory

Committee on Transportation Storm Water Management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person to obtain from the Director of the Department of Transportation a permit before disturbing or digging up, or performing certain similar acts with respect to, a state highway or right-of-way. (NRS 408.423) Section 4 of this bill prohibits a person from discharging onto a state highway, within a right-of-way or into, onto or by way of a conveyance system unless: (1) the discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director for the discharge; (2) the discharge is carried out in compliance with the terms of the applicable permit; and (3) the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director. In addition, section 4 requires that if a person carries out such a discharge without adhering to the three preceding requirements, the person must, upon receipt of an order for compliance issued pursuant to section 7 of this bill, abate, remove or remediate the discharge in a timely manner. If the person fails to abate, remove or remediate the discharge, the Director may exercise several powers of enforcement, as set forth in sections 5-10 of this bill.

Sections 5-10 of this bill provide certain enforcement powers to the Director relating to section 4 and authorize the Director to: (1) enter upon any premises to investigate the source of a discharge; (2) issue orders for compliance to enforce the provisions of section 4; (3) seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act which violates or may violate the provisions of section 4; (4) impose a civil penalty of up to \$25,000 per day for violations of the provisions of section 4; (5) request that the Attorney General institute a criminal prosecution for a violation of the provisions of section 4; and (6) conduct an independent investigation of any act which violates or may violate the provisions of section 4. Section 10.3 of this bill creates and sets forth the functions and duties of the Advisory Committee on Transportation Storm Water Management, an advisory body which expires by limitation on June 30, 2021.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 405.205 is hereby amended to read as follows:

405.205 A rural electric cooperative which has been formed pursuant to NRS 81.410 to 81.540, inclusive, may erect or bury, and thereafter maintain or operate, power lines, and may permit the maintenance and operation of telephone lines in connection therewith, along public highways, roads, streets and alleys within the area which it holds a certificate of public convenience and necessity to serve. In exercising this right, the cooperative shall not

obstruct the natural and proper use of the highway, road, street or alley, and is subject to the requirements of NRS 408.423 ~~[]~~ and section 4 of this act.

Sec. 3. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.3 to ~~[40.]~~ 10.3, inclusive, of this act.

Sec. 3.3. *"Conveyance system" means any system of drainage along or involving the roads or highways of this State, or within the rights-of-way of the Department, and designed or used to collect, contain, store or provide for the flow of surface and storm water. The term includes, without limitation, gutters, curbs, ditches, pipes, culverts, channels, catch basins, vaults, man-made channels or storm drains that are owned, operated or controlled by the Department.*

Sec. 3.5. *"Discharge" means the release of any pollutant, as that term is defined in NRS 445A.400, onto any state highway, within any right-of-way or into, onto or by way of any conveyance system.*

Sec. 4. 1. No person shall discharge or cause a discharge upon a state highway, within a right-of-way or into, onto or by way of a conveyance system unless:

(a) The discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director pursuant to NRS 408.423;

(b) The person ensures that the discharge is carried out in compliance with the terms of the applicable permit that allows the discharge, as described in paragraph (a); and

(c) The person ensures that the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director.

2. If a person violates the provisions of subsection 1, the person shall, upon receipt of an order for compliance issued pursuant to section 7 of this act, abate, remove or remediate the discharge in a timely manner.

3. If a person who violates the provisions of subsection 1 fails to abate, remove or remediate the discharge in a timely manner, the Director may abate, remove or remediate the discharge. The abatement, removal or remediation of a discharge pursuant to this subsection gives the Department a right of action to recover any of the following:

(a) Any expenses associated with the abatement, removal or remediation

(b) Attorney's fees, costs and expenses related to the abatement, removal or remediation.

(c) An administrative fee in an amount not to exceed \$750 for each day of noncompliance with the provisions of subsection 1, commencing on the 6th day after the person who failed to abate, remove or remediate the discharge received an order for compliance pursuant to section 7 of this act.

(d) A civil penalty pursuant to section 9 of this act.

4. The remedies provided in subsection 3 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that

may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

5. All money obtained in accordance with this section, including, without limitation, all fees and monetary penalties imposed pursuant to this section, must be deposited in the State Highway Fund.

6. To enforce the provisions of this section, the Director may cooperate and coordinate with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of the Attorney General.

Sec. 5. To enforce the provisions of section 4 of this act or any rule, regulation, standard, permit or order of the Director related thereto, the Director or an authorized designee of the Director may, upon presenting proper credentials:

1. Enter upon any premises upon which any act in violation of section 4 of this act takes place to inspect, investigate, collect data or otherwise document the violation;

2. At reasonable times, have access to and copy any records required to be maintained in association with any permit issued for the purposes of section 4 of this act or with any abatement, removal or remediation of a discharge that violates the provisions of section 4 of this act;

3. Inspect any equipment or method for the monitoring or observation of a discharge; and

4. Have access to and sample any discharge onto the state highway or right-of-way which results directly or indirectly from activities of an owner or operator of a premises where the discharge originates.

Sec. 6. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged or is about to engage in any act or practice which violates any rule, regulation, standard, permit or order issued by the Director for the purposes of section 4 of this act, the Director may:

(a) Issue an order for compliance pursuant to section 7 of this act;

(b) Commence a civil action pursuant to sections 8 and 9 of this act; or

(c) Request that the Attorney General prosecute any person who violates any provision of sections 4 to 10, inclusive, of this act.

2. The remedies provided in subsection 1 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 7. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any rule, regulation, standard, permit or order issued by the Director to enforce the provisions of section 4 of this act, the Director or an authorized designee of the Director may issue an order for compliance which:

(a) Specifies the provisions of section 4 of this act, or any rule, regulation, standard, permit or order issued by the Director, alleged to be violated or about to be violated;

(b) Indicates the facts alleged which constitute the alleged violation;

(c) Prescribes the necessary corrective action to be taken and a reasonable period for completion of that corrective action; and

(d) Except as otherwise provided in this paragraph, is served upon the person at his or her place of business or, if that place of business is unknown, served upon the person through the post office or at his or her last known address of record. Alternatively, the order for compliance may be served upon the person by sending a copy of the order to the electronic mail address of the person, if the electronic mail address of the person is known.

2. Any order for compliance issued pursuant to subsection 1 is final and is not subject to review unless the person against whom the order is issued, within 10 days after the date on which the order is served, requests by written petition a hearing before the Director or an authorized designee of the Director.

Sec. 8. 1. Except as otherwise provided in section 10 of this act, the Director may seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act or practice which violates any provision of section 4 of this act, or any rule, regulation, standard, permit or order issued pursuant thereto.

2. On a showing by the Director or an authorized designee of the Director that a person is engaged or is about to engage in any act or practice which violates or will violate any rule, regulation, standard, permit or order issued for the purposes of section 4 of this act, the court may issue, without bond, any prohibitory or mandatory injunctions that the facts may warrant, including, without limitation, a temporary restraining order issued *ex parte*, or, after notice and an opportunity for a hearing, a preliminary injunction or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction pursuant to subsection 2.

4. A court may require the posting of a sufficient performance bond or other security interest to ensure compliance with the court order within the period prescribed.

5. An injunction issued pursuant to this section does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 9. Except as otherwise provided in sections 4 to 10, inclusive, of this act, any person who violates or aids or abets in the violation of any provision of section 4 of this act, or of any rule, regulation, standard, permit or order issued pursuant thereto, shall pay a civil penalty of not more than

\$25,000 for each day of the violation. A civil penalty imposed pursuant to this section is cumulative and does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 10. 1. Except as otherwise provided in subsection 2, before determining whether to issue an order for compliance, commence a civil action, request that the Attorney General commence a criminal action or seek injunctive relief pursuant to sections 4 to 10, inclusive, of this act, the Director or the authorized designee of the Director shall, if practicable, conduct an independent investigation of the alleged act or practice for which the Director is making the determination.

2. The Director is not required to conduct an independent investigation pursuant to subsection 1 if:

(a) The determination of the Director to take any action specified in that subsection is based on information that is provided to the Director by a person authorized to act pursuant to a permit issued for the purposes of section 4 of this act or by a person who has carried out a discharge that is unauthorized, unlawful or otherwise impermissible pursuant to that section; or

(b) The alleged act or practice creates an imminent and substantial danger to the public health or the environment.

Sec. 10.3. 1. The Advisory Committee on Transportational Storm Water Management is hereby created.

2. The Advisory Committee consists of five members appointed by the Director of the State Department of Conservation and Natural Resources as follows:

(a) One member who represents the Associated General Contractors of America.

(b) One member who represents the State Department of Conservation and Natural Resources.

(c) One member who represents the Department of Transportation.

(d) One member who represents the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(e) One member who represents the public and who has expertise in a field that is relevant to the storm water program.

3. The Chair of the Advisory Committee must be the member of the Advisory Committee who is appointed to represent the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each member of the Advisory Committee serves for a term of 3 years, beginning on July 1, and may be reappointed.

5. Each member of the Advisory Committee serves at the pleasure of the Director of the State Department of Conservation and Natural Resources.

6. A vacancy on the Advisory Committee must be filled in the same manner as the original appointment.

7. Members of the Advisory Committee serve without compensation and are not entitled to travel or per diem expenses.

8. The Advisory Committee shall meet at the call of the Chair as frequently as required to perform its duties.

9. The Advisory Committee shall work cooperatively with the Division of Environmental Protection of the State Department of Conservation and Natural Resources to:

(a) Ensure the sound implementation and functioning of the storm water program.

(b) Monitor the status and efficacy of the storm water program.

10. Not less frequently than once each calendar quarter, the Advisory Committee shall report to the Department of Transportation regarding matters to include, without limitation:

(a) The activities of the Advisory Committee; and

(b) The implementation and efficacy of the storm water program.

11. Not less frequently than once each calendar quarter, the Department of Transportation shall report to the Interim Finance Committee regarding matters to include, without limitation:

(a) The activities of the Advisory Committee; and

(b) The implementation and efficacy of the storm water program.

12. As used in this section:

(a) "Advisory Committee" means the Advisory Committee on Transportational Storm Water Management created by subsection 1.

(b) "Storm water program" means the program described in sections 4 to 10, inclusive, of this act.

Sec. 10.5. NRS 408.020 is hereby amended to read as follows:

408.020 As used in this chapter , *unless the context otherwise requires*, the words and terms defined in NRS 408.033 to 408.095, inclusive, ~~unless the context otherwise requires,~~ and sections 3.3 and 3.5 of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 408.050 is hereby amended to read as follows:

408.050 "Encroachment" means any tower, pole, pole line, wire, pipe, pipeline, fence, billboard, approach road, driveway, stand or building, crop or crops, flora, *discharge of any kind or character* or any structure which is placed in, upon, under or over any portion of highway rights-of-way.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) *Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. The Deputy Director described in this paragraph shall coordinate the implementation of sections 4 to 10, inclusive, of this act with the State Department of Conservation and Natural Resources.*

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

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

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

Sec. 13.5. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department. ~~[The Deputy Director described in this paragraph shall coordinate the implementation of sections 4 to 10, inclusive, of this act with the State Department of Conservation and Natural Resources.]~~

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

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

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

Sec. 14. NRS 408.210 is hereby amended to read as follows:

408.210 1. Except as otherwise provided in NRS 484D.655, the Director of the Department of Transportation may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Office of Economic Development or the Director of the Department of Tourism and Cultural Affairs.

2. The Director of the Department of Transportation may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. ~~{The}~~ *Except as otherwise provided in sections 4 to 10, inclusive, of this act, the* Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of ~~[\$100]~~ \$750 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or

remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself or herself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 15. NRS 408.423 is hereby amended to read as follows:

408.423 1. No state highway or right-of-way may be disturbed, dug up, crossed, encroached upon, *discharged upon* or otherwise used for the laying or re-laying of pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways or for any other purpose, without the written permit of the Director, and then only in accordance with the conditions and regulations prescribed by the Director. All such work must be done under the supervision and to the satisfaction of the Director. All costs of replacing the highway in as good condition as previous to its being disturbed must be paid by the persons to whom or on whose behalf such permit was given or by the person by whom the work was done.

2. In case of immediate necessity therefor, a city or town may dig up a state highway without a permit from the Director, but in such cases the Director must be first notified and the highway must be replaced forthwith in as good condition as before at the expense of such city or town.

3. The Department shall charge each applicant a reasonable fee for all administrative costs incurred by the Department in acting upon an application for a permit, including costs for the preparation and inspection of a proposed encroachment.

Sec. 15.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 16. 1. This section and sections 1 to 13, inclusive, 14, 15 and 15.5 of this act ~~becomes~~ become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act, and on July 1, 2015 ~~it~~, for all other purposes.

2. Section 13.5 of this act becomes effective on July 1, 2021.

3. Section 10.3 of this act expires by limitation on June 30, 2021.

Amendment No. 1011.

SUMMARY—Revises provisions concerning the Department of Transportation. (BDR 35-23)

AN ACT relating to the Department of Transportation; authorizing the Director of the Department to issue an encroachment permit for certain discharges onto a state highway, within a right-of-way or into, onto or by way of a conveyance system; providing civil penalties for an unauthorized discharge onto a state highway, within a right-of-way or into, onto or by way of a conveyance system or for a violation of an encroachment permit issued by the Director; revising the qualifications of the Director; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person to obtain from the Director of the Department of Transportation a permit before disturbing or digging up, or performing certain similar acts with respect to, a state highway or right-of-way. (NRS 408.423) Section 4 of this bill prohibits a person from discharging onto a state highway, within a right-of-way or into, onto or by way of a conveyance system unless: (1) the discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director for the discharge; (2) the discharge is carried out in compliance with the terms of the applicable permit; and (3) the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director. In addition, section 4 requires that if a person carries out such a discharge without adhering to the three preceding requirements, the person must, upon receipt of an order for compliance issued pursuant to section 7 of this bill, abate, remove or remediate the discharge in a timely manner. If the person fails to abate, remove or remediate the discharge, the Director may exercise several powers of enforcement, as set forth in sections 5-10 of this bill.

Sections 5-10 of this bill provide certain enforcement powers to the Director relating to section 4 and authorize the Director to: (1) enter upon any premises to investigate the source of a discharge; (2) issue orders for compliance to enforce the provisions of section 4; (3) seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act which violates or may violate the provisions of section 4; (4) impose a civil penalty of up to \$25,000 per day for violations of the provisions of section 4; (5) request that the Attorney General institute a criminal prosecution for a violation of the provisions of section 4; and (6) conduct an independent investigation of any act which violates or may violate the provisions of section 4.

Section 11.5 of this bill removes the requirement that the Director be a licensed professional engineer in this State.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 405.205 is hereby amended to read as follows:

405.205 A rural electric cooperative which has been formed pursuant to NRS 81.410 to 81.540, inclusive, may erect or bury, and thereafter maintain or operate, power lines, and may permit the maintenance and operation of telephone lines in connection therewith, along public highways, roads, streets and alleys within the area which it holds a certificate of public convenience and necessity to serve. In exercising this right, the cooperative shall not obstruct the natural and proper use of the highway, road, street or alley, and is subject to the requirements of NRS 408.423 ~~and~~ *and section 4 of this act.*

Sec. 3. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.3 to 10, inclusive, of this act.

Sec. 3.3. *"Conveyance system" means any system of drainage along or involving the roads or highways of this State, or within the rights-of-way of the Department, and designed or used to collect, contain, store or provide for the flow of surface and storm water. The term includes, without limitation, gutters, curbs, ditches, pipes, culverts, channels, catch basins, vaults, man-made channels or storm drains that are owned, operated or controlled by the Department.*

Sec. 3.5. *"Discharge" means the release of any pollutant, as that term is defined in NRS 445A.400, onto any state highway, within any right-of-way or into, onto or by way of any conveyance system.*

Sec. 4. 1. No person shall discharge or cause a discharge upon a state highway, within a right-of-way or into, onto or by way of a conveyance system unless:

(a) *The discharge is allowed by a valid National Pollutant Discharge Elimination System permit or a valid encroachment permit issued by the Director pursuant to NRS 408.423;*

(b) *The person ensures that the discharge is carried out in compliance with the terms of the applicable permit that allows the discharge, as described in paragraph (a); and*

(c) *The person ensures that the discharge is carried out in accordance with any applicable conditions, rules and regulations prescribed by the Director.*

2. *If a person violates the provisions of subsection 1, the person shall, upon receipt of an order for compliance issued pursuant to section 7 of this act, abate, remove or remediate the discharge in a timely manner.*

3. *If a person who violates the provisions of subsection 1 fails to abate, remove or remediate the discharge in a timely manner, the Director may abate, remove or remediate the discharge. The abatement, removal or remediation of a discharge pursuant to this subsection gives the Department a right of action to recover any of the following:*

(a) *Any expenses associated with the abatement, removal or remediation.*

(b) *Attorney's fees, costs and expenses related to the abatement, removal or remediation.*

(c) *An administrative fee in an amount not to exceed \$750 for each day of noncompliance with the provisions of subsection 1, commencing on the 6th day after the person who failed to abate, remove or remediate the discharge received an order for compliance pursuant to section 7 of this act.*

(d) *A civil penalty pursuant to section 9 of this act.*

4. *The remedies provided in subsection 3 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

5. *All money obtained in accordance with this section, including, without limitation, all fees and monetary penalties imposed pursuant to this section, must be deposited in the State Highway Fund.*

6. *To enforce the provisions of this section, the Director may cooperate and coordinate with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of the Attorney General.*

Sec. 5. *To enforce the provisions of section 4 of this act or any rule, regulation, standard, permit or order of the Director related thereto, the Director or an authorized designee of the Director may, upon presenting proper credentials:*

1. *Enter upon any premises upon which any act in violation of section 4 of this act takes place to inspect, investigate, collect data or otherwise document the violation;*

2. *At reasonable times, have access to and copy any records required to be maintained in association with any permit issued for the purposes of section 4 of this act or with any abatement, removal or remediation of a discharge that violates the provisions of section 4 of this act;*

3. *Inspect any equipment or method for the monitoring or observation of a discharge; and*

4. *Have access to and sample any discharge onto the state highway or right-of-way which results directly or indirectly from activities of an owner or operator of a premises where the discharge originates.*

Sec. 6. 1. *Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged or is about to engage in any act or practice which violates any rule, regulation, standard, permit or order issued by the Director for the purposes of section 4 of this act, the Director may:*

(a) *Issue an order for compliance pursuant to section 7 of this act;*

(b) *Commence a civil action pursuant to sections 8 and 9 of this act; or*

(c) *Request that the Attorney General prosecute any person who violates any provision of sections 4 to 10, inclusive, of this act.*

2. *The remedies provided in subsection 1 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.*

Sec. 7. 1. *Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any rule, regulation, standard, permit or order issued by the Director to enforce the provisions of section 4 of this act, the Director or an authorized designee of the Director may issue an order for compliance which:*

(a) Specifies the provisions of section 4 of this act, or any rule, regulation, standard, permit or order issued by the Director, alleged to be violated or about to be violated;

(b) Indicates the facts alleged which constitute the alleged violation;

(c) Prescribes the necessary corrective action to be taken and a reasonable period for completion of that corrective action; and

(d) Except as otherwise provided in this paragraph, is served upon the person at his or her place of business or, if that place of business is unknown, served upon the person through the post office or at his or her last known address of record. Alternatively, the order for compliance may be served upon the person by sending a copy of the order to the electronic mail address of the person, if the electronic mail address of the person is known.

2. *Any order for compliance issued pursuant to subsection 1 is final and is not subject to review unless the person against whom the order is issued, within 10 days after the date on which the order is served, requests by written petition a hearing before the Director or an authorized designee of the Director.*

Sec. 8. 1. *Except as otherwise provided in section 10 of this act, the Director may seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act or practice which violates any provision of section 4 of this act, or any rule, regulation, standard, permit or order issued pursuant thereto.*

2. *On a showing by the Director or an authorized designee of the Director that a person is engaged or is about to engage in any act or practice which violates or will violate any rule, regulation, standard, permit or order issued for the purposes of section 4 of this act, the court may issue, without bond, any prohibitory or mandatory injunctions that the facts may warrant, including, without limitation, a temporary restraining order issued ex parte, or, after notice and an opportunity for a hearing, a preliminary injunction or permanent injunction.*

3. *Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction pursuant to subsection 2.*

4. *A court may require the posting of a sufficient performance bond or other security interest to ensure compliance with the court order within the period prescribed.*

5. *An injunction issued pursuant to this section does not abrogate and is in addition to any other remedies and penalties that may exist at law or in*

equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 9. Except as otherwise provided in sections 4 to 10, inclusive, of this act, any person who violates or aids or abets in the violation of any provision of section 4 of this act, or of any rule, regulation, standard, permit or order issued pursuant thereto, shall pay a civil penalty of not more than \$25,000 for each day of the violation. A civil penalty imposed pursuant to this section is cumulative and does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 10. 1. Except as otherwise provided in subsection 2, before determining whether to issue an order for compliance, commence a civil action, request that the Attorney General commence a criminal action or seek injunctive relief pursuant to sections 4 to 10, inclusive, of this act, the Director or the authorized designee of the Director shall, if practicable, conduct an independent investigation of the alleged act or practice for which the Director is making the determination.

2. The Director is not required to conduct an independent investigation pursuant to subsection 1 if:

(a) The determination of the Director to take any action specified in that subsection is based on information that is provided to the Director by a person authorized to act pursuant to a permit issued for the purposes of section 4 of this act or by a person who has carried out a discharge that is unauthorized, unlawful or otherwise impermissible pursuant to that section; or

(b) The alleged act or practice creates an imminent and substantial danger to the public health or the environment.

Sec. 10.5. NRS 408.020 is hereby amended to read as follows:

408.020 As used in this chapter, *unless the context otherwise requires*, the words and terms defined in NRS 408.033 to 408.095, inclusive, ~~unless the context otherwise requires,~~ and sections 3.3 and 3.5 of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 408.050 is hereby amended to read as follows:

408.050 "Encroachment" means any tower, pole, pole line, wire, pipe, pipeline, fence, billboard, approach road, driveway, stand or building, crop or crops, flora, *discharge of any kind or character* or any structure which is placed in, upon, under or over any portion of highway rights-of-way.

Sec. 11.5. NRS 408.163 is hereby amended to read as follows:

408.163 The Director:

1. Is in the unclassified service of the State.

2. ~~Must be a licensed professional engineer in the State.~~

~~3.~~ Must have had at least 5 years of responsible administrative experience in public or business administration.

~~[4.]~~ 3. Must possess broad skills as a manager in areas related to the functions of the Department.

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) *Appoint one Deputy Director with full authority to perform any duty required or allowed by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department.*

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

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

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

Sec. 14. NRS 408.210 is hereby amended to read as follows:

408.210 1. Except as otherwise provided in NRS 484D.655, the Director of the Department of Transportation may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Office of Economic Development or the Director of the Department of Tourism and Cultural Affairs.

2. The Director of the Department of Transportation may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. ~~[The]~~ *Except as otherwise provided in sections 4 to 10, inclusive, of this act, the* Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of ~~[\$100]~~ \$750 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself or herself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 15. NRS 408.423 is hereby amended to read as follows:

408.423 1. No state highway or right-of-way may be disturbed, dug up, crossed, encroached upon, *discharged upon* or otherwise used for the laying or re-laying of pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways or for any other purpose, without the written permit of the Director, and then only in accordance with the conditions and regulations prescribed by the Director. All such work must be done under the supervision and to the satisfaction of the Director. All costs of replacing the

highway in as good condition as previous to its being disturbed must be paid by the persons to whom or on whose behalf such permit was given or by the person by whom the work was done.

2. In case of immediate necessity therefor, a city or town may dig up a state highway without a permit from the Director, but in such cases the Director must be first notified and the highway must be replaced forthwith in as good condition as before at the expense of such city or town.

3. The Department shall charge each applicant a reasonable fee for all administrative costs incurred by the Department in acting upon an application for a permit, including costs for the preparation and inspection of a proposed encroachment.

Sec. 16. This act becomes effective on July 1, 2015.

Senator Hammond moved that the Senate concur in Assembly Amendments Nos. 1010, 1011 to Senate Bill No. 324.

Remarks by Senator Hammond.

Amendment No. 1010 creates the Advisory Committee on Transportational Storm Water Management to work with the Division of Environmental Protection, State Department of Conservation and Natural Resources, regarding the implementation of the storm water program.

The Committee must report at least quarterly to the Nevada Department of Transportation (NDOT) regarding its activities, and NDOT must report at least quarterly to the Interim Finance Committee on the status of the implementation of the storm water program.

Amendment No. 1011 to Senate Bill No. 324 removes the requirement that the Director of the Department of Transportation be a licensed professional engineer in this State.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 489.

The following Assembly amendment was read:

Amendment No. 995.

SUMMARY—Provides for the regulation of peer support recovery organizations. (BDR 40-1191)

AN ACT relating to health; requiring the licensure of peer support recovery organizations by the Division of Public and Behavioral Health of the Department of Health and Human Services and to pay an application fee for the license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who wishes to operate or maintain a facility for the dependent or a medical facility to obtain a license from the Division of Public and Behavioral Health of the Department of Health and Human Services and to pay an application fee for the license. (NRS 449.030, 449.050) Section 6 of this bill includes a peer support recovery organization within the definition of facility for the dependent, thereby requiring peer support recovery organizations to obtain a license from the Division. Section 4 of this bill provides that a person who holds a license as a facility for the dependent or a medical facility and employs persons to provide peer support services is not required to obtain an additional license as a peer

support recovery organization. Sections 9-11 of this bill impose certain requirements on peer support recovery organizations. Section 14 of this bill makes certain employees of a peer support recovery organization immune from civil liability for rendering emergency care or assistance in good faith in the course of his or her employment. Sections 15 and 17 of this bill extend certain mandatory reporting requirements to peer support recovery organizations.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Peer support recovery organization" means a person or agency which, for compensation, provides peer support services to persons who are 18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction.*

Sec. 3. *"Peer support services" means supportive services relating to mental health, addiction or substance abuse which:*

1. *Do not require the person offering the supportive services to be licensed.*

2. *Are offered to a person in need of such services.*

3. *May include, without limitation:*

(a) *Helping to stabilize such a person;*

(b) *Helping such a person with recovery;*

(c) *Helping such a person to access community-based behavioral health care;*

(d) *Assisting such a person during a crisis situation or an intervention;*

(e) *Providing assistance with preventive care;*

(f) *Providing strategies and education relating to the whole health needs of such a person; and*

(g) *Providing encouragement, peer mentoring and training in self-advocacy and self-direction to such a person.*

Sec. 4. *A person who is licensed pursuant to this chapter as a facility for the dependent or a medical facility and who employs persons to provide peer support services is not required to obtain an additional license as a peer support recovery organization.*

Sec. 5. NRS 449.001 is hereby amended to read as follows:

449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 449.0045 is hereby amended to read as follows:

449.0045 "Facility for the dependent" includes:

1. A facility for the treatment of abuse of alcohol or drugs;

2. A halfway house for recovering alcohol and drug abusers;

3. A facility for the care of adults during the day;
4. A residential facility for groups;
5. An agency to provide personal care services in the home;
6. A facility for transitional living for released offenders; ~~and~~
7. A home for individual residential care ~~[-]~~; and
8. *A peer support recovery organization.*

Sec. 7. NRS 449.030 is hereby amended to read as follows:

449.030 1. ~~[No]~~ *Except as otherwise provided in section 4 of this act,* no person, state or local government or agency thereof may operate or maintain in this State any medical facility or facility for the dependent without first obtaining a license therefor as provided in NRS 449.030 to 449.2428, inclusive ~~[-]~~, *and section 4 of this act.*

2. Unless licensed as a facility for hospice care, a person, state or local government or agency thereof shall not operate a program of hospice care without first obtaining a license for the program from the Board.

Sec. 8. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.030 to 449.2428, inclusive, *and section 4 of this act* and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~[-]~~, *and section 4 of this act.*

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↪ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

- (2) Contain a sleeping area or bedroom; and
- (3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that non-ambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➡ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 9. NRS 449.065 is hereby amended to read as follows:

449.065 1. Except as otherwise provided in subsections 6 and 7 and NRS 449.067, each facility for intermediate care, facility for skilled nursing, *peer support recovery organization*, residential facility for groups, home for individual residential care, agency to provide personal care services in the home and agency to provide nursing in the home shall, when applying for a license or renewing a license, file with the Administrator of the Division of Public and Behavioral Health a surety bond:

(a) If the facility, agency, *organization* or home employs less than 7 employees, in the amount of \$5,000;

(b) If the facility, agency, *organization* or home employs at least 7 but not more than 25 employees, in the amount of \$25,000; or

(c) If the facility, agency, *organization* or home employs more than 25 employees, in the amount of \$50,000.

2. A bond filed pursuant to this section must be executed by the facility, agency, *organization* or home as principal and by a surety company as surety. The bond must be payable to the Aging and Disability Services

Division of the Department of Health and Human Services and must be conditioned to provide indemnification to an older patient who the Specialist for the Rights of Elderly Persons determines has suffered property damage as a result of any act or failure to act by the facility, agency , *organization* or home to protect the property of the older patient.

3. Except when a surety is released, the surety bond must cover the period of the initial license to operate or the period of the renewal, as appropriate.

4. A surety on any bond filed pursuant to this section may be released after the surety gives 30 days' written notice to the Administrator of the Division of Public and Behavioral Health, but the release does not discharge or otherwise affect any claim filed by an older patient for property damaged as a result of any act or failure to act by the facility, agency , *organization* or home to protect the property of the older patient alleged to have occurred while the bond was in effect.

5. A license is suspended by operation of law when the facility, agency , *organization* or home is no longer covered by a surety bond as required by this section or by a substitute for the surety bond pursuant to NRS 449.067. The Administrator of the Division of Public and Behavioral Health shall give the facility, agency , *organization* or home at least 20 days' written notice before the release of the surety or the substitute for the surety, to the effect that the license will be suspended by operation of law until another surety bond or substitute for the surety bond is filed in the same manner and amount as the bond or substitute being terminated.

6. The Administrator of the Division of Public and Behavioral Health may exempt a *peer support recovery organization*, residential facility for groups or a home for individual residential care from the requirement of filing a surety bond pursuant to this section if the Administrator determines that the requirement would result in undue hardship to the *peer support recovery organization*, residential facility for groups or home for individual residential care.

7. The requirement of filing a surety bond set forth in this section does not apply to a facility for intermediate care, facility for skilled nursing, *peer support recovery organization*, residential facility for groups, home for individual residential care, agency to provide personal care services in the home or agency to provide nursing in the home that is operated and maintained by the State of Nevada or an agency thereof.

8. As used in this section, "older patient" means a patient who is 60 years of age or older.

Sec. 10. NRS 449.067 is hereby amended to read as follows:

449.067 1. As a substitute for the surety bond required pursuant to NRS 449.065, a facility for intermediate care, a facility for skilled nursing, a *peer support recovery organization*, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in

the home and an agency to provide nursing in the home may deposit with any bank or trust company authorized to do business in this State, upon approval from the Administrator of the Division of Public and Behavioral Health:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State, in an aggregate amount, based upon principal amount or market value, whichever is lower.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond required by NRS 449.065. With the approval of the Administrator of the Division of Public and Behavioral Health, the depositor may substitute other suitable obligations for those deposited, which must be assigned to the Aging and Disability Services Division of the Department of Health and Human Services and are negotiable only upon approval by the Administrator of the Aging and Disability Services Division.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be an amount at least equal to the surety bond required by NRS 449.065 and must state that the amount may not be withdrawn except by direct and sole order of the Administrator of the Aging and Disability Services Division.

Sec. 11. NRS 449.089 is hereby amended to read as follows:

449.089 1. Each license issued pursuant to NRS 449.030 to 449.2428, inclusive, *and section 4 of this act* expires on December 31 following its issuance and is renewable for 1 year upon reapplication and payment of all fees required pursuant to NRS 449.050 unless the Division finds, after an investigation, that the facility has not:

(a) Satisfactorily complied with the provisions of NRS 449.030 to 449.2428, inclusive, *and section 4 of this act* or the standards and regulations adopted by the Board;

(b) Obtained the approval of the Director of the Department of Health and Human Services before undertaking a project, if such approval is required by NRS 439A.100; or

(c) Conformed to all applicable local zoning regulations.

2. Each reapplication for an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, a residential facility for groups, a program of hospice care, a home for

individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, *a peer support recovery organization*, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs must include, without limitation, a statement that the facility, hospital, agency, program, *organization* or home is in compliance with the provisions of NRS 449.119 to 449.125, inclusive, and 449.174.

3. Each reapplication for an agency to provide personal care services in the home, a facility for intermediate care, a facility for skilled nursing, a facility for the care of adults during the day, *a peer support recovery organization*, a residential facility for groups or a home for individual residential care must include, without limitation, a statement that the holder of the license to operate, and the administrator or other person in charge and employees of, the facility, agency, *organization* or home are in compliance with the provisions of NRS 449.093.

Sec. 12. NRS 449.119 is hereby amended to read as follows:

449.119 As used in NRS 449.119 to 449.125, inclusive, "facility, hospital, agency, program or home" means an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing, a hospital described in 42 U.S.C. 1395ww(d)(1)(B)(iv) which accepts payment through Medicare, *a peer support recovery organization*, a residential facility for groups, a program of hospice care, a home for individual residential care, a facility for the care of adults during the day, a facility for hospice care, a nursing pool, the distinct part of a hospital which meets the requirements of a skilled nursing facility or nursing facility pursuant to 42 C.F.R. 483.5(b)(2), a hospital that provides swing-bed services as described in 42 C.F.R. 482.66 or, if residential services are provided to children, a medical facility or facility for the treatment of abuse of alcohol or drugs.

Sec. 13. NRS 449.174 is hereby amended to read as follows:

449.174 1. In addition to the grounds listed in NRS 449.160, the Division may deny a license to operate a facility, hospital, agency, program or home to an applicant or may suspend or revoke the license of a licensee to operate such a facility, hospital, agency, program or home if:

(a) The applicant or licensee has been convicted of:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault or battery with intent to kill or to commit sexual assault or mayhem;
- (3) Sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony;

(4) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, within the immediately preceding 7 years;

(5) A crime involving domestic violence that is punished as a felony;

(6) A crime involving domestic violence that is punished as a misdemeanor, within the immediately preceding 7 years;

(7) Abuse or neglect of a child or contributory delinquency;

(8) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the immediately preceding 7 years;

(9) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;

(10) A violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;

(11) A violation of any provision of NRS 422.450 to 422.590, inclusive;

(12) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(13) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years;

(14) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon; or

(15) An attempt or conspiracy to commit any of the offenses listed in this paragraph, within the immediately preceding 7 years;

(b) The licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a); or

(c) The applicant or licensee has had a substantiated report of child abuse or neglect made against him or her and if the facility, hospital, agency, program or home provides residential services to children.

2. In addition to the grounds listed in NRS 449.160, the Division may suspend or revoke the license of a licensee to operate an agency to provide personal care services in the home, ~~for~~ an agency to provide nursing in the home *or a peer support recovery organization* if the licensee has, in violation of NRS 449.125, continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

3. As used in this section:

(a) "Domestic violence" means an act described in NRS 33.018.

(b) "Facility, hospital, agency, program or home" has the meaning ascribed to it in NRS 449.119.

(c) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(d) "Medicare" has the meaning ascribed to it in NRS 439B.130.

Sec. 14. NRS 449.194 is hereby amended to read as follows:

449.194 Any person who is employed by an agency to provide personal care services in the home *or a peer support recovery organization* who:

1. Has successfully completed a course in cardiopulmonary resuscitation according to the guidelines of the American National Red Cross or American Heart Association;

2. Has successfully completed the training requirements of a course in basic emergency care of a person in cardiac arrest conducted in accordance with the standards of the American Heart Association; or

3. Has successfully completed the training requirements of a course in the use and administration of first aid, including cardiopulmonary resuscitation,

↪ and who in good faith renders emergency care or assistance in accordance with the person's training, in the course of his or her regular employment or profession, to an elderly person or a person with a disability, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by that person in rendering that care.

Sec. 15. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation 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 action occurred; or

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

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the 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 person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department

of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, music therapist, athletic trainer, driver of an ambulance, paramedic, licensed dietitian or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

(m) *Every person who operates or is employed by a peer support recovery organization, as defined in section 2 of this act.*

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably

practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

- (a) Aging and Disability Services Division;
- (b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and
- (c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 16. NRS 427A.175 is hereby amended to read as follows:

427A.175 1. Within 1 year after an older patient sustains damage to his or her property as a result of any act or failure to act by a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, a home for individual residential care, an agency to provide personal care services in the home, an intermediary service organization, *a peer support recovery organization* or an agency to provide nursing in the home in protecting the property, the older patient may file a verified complaint with the Division setting forth the details of the damage.

2. Upon receiving a verified complaint pursuant to subsection 1, the Administrator shall investigate the complaint and attempt to settle the matter through arbitration, mediation or negotiation.

3. If a settlement is not reached pursuant to subsection 2, the facility, home, agency, organization or older patient may request a hearing before the Specialist for the Rights of Elderly Persons. If requested, the Specialist for

the Rights of Elderly Persons shall conduct a hearing to determine whether the facility, home, agency or organization is liable for damages to the patient. If the Specialist for the Rights of Elderly Persons determines that the facility, home, agency or organization is liable for damages to the patient, the Specialist for the Rights of Elderly Persons shall order the amount of the surety bond pursuant to NRS 449.065 or the substitute for the surety bond necessary to pay for the damages pursuant to NRS 449.067 to be released to the Division. The Division shall pay any such amount to the older patient or the estate of the older patient.

4. The Division shall create a separate account for money to be collected and distributed pursuant to this section.

5. As used in this section:

(a) "Agency to provide nursing in the home" has the meaning ascribed to it in NRS 449.0015;

(b) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021;

(c) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038;

(d) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039;

(e) "Home for individual residential care" has the meaning ascribed to it in NRS 449.0105;

(f) "Intermediary service organization" has the meaning ascribed to it in NRS 449.4304;

(g) "Older patient" has the meaning ascribed to it in NRS 449.065; ~~and~~

(h) *"Peer support recovery organization" has the meaning ascribed to it in section 2 of this act; and*

(i) "Residential facility for groups" has the meaning ascribed to it in NRS 449.017.

Sec. 17. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, medication aide - certified, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, music therapist, driver of an ambulance, paramedic or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or

facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

(l) *Any person who operates or is employed by a peer support recovery organization.*

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant or medication aide - certified has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section ~~[- "agency"]~~ :

(a) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

(b) *"Peer support recovery organization" has the meaning ascribed to it in section 2 of this act.*

Sec. 18. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes.

Senator Hardy moved that the Senate concur in Assembly Amendment No. 995 to Senate Bill No. 489.

Remarks by Senator Hardy.

This amendment clarifies that the peer support recovery organization is for compensation for peer support services and is a good amendment from the Assembly.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

Your Conference Committee concerning Senate Bill No. 340, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 824 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

Conference Amendment No. 3.

SUMMARY—Revises provisions governing public works. (BDR 28-255)

AN ACT relating to public works; disqualifying a contractor from being awarded a contract for a public work under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Labor Commissioner to impose an administrative penalty against a person who violates certain provisions related to contracts for public works in this State. (NRS 338.015) A person against whom such an administrative penalty is imposed may not be awarded a contract for a public work for a period of 3 years, and upon a second or subsequent offense, for a period of 5 years. (NRS 338.017) In addition to the prohibition on being awarded a contract for public works, such a person is also subject to the suspension of his or her contractor's license by the State Contractors' Board for the length of the prohibition. (NRS 624.300)

Under federal law, a contractor may be excluded for a period of time from receiving contracts from the Federal Government if the contractor is debarred. (48 C.F.R. §§ 9.400 et seq.)

This bill provides that, if a contractor is excluded for a period of time from receiving contracts from the Federal Government as a result of being debarred, the contractor may not be awarded a contract for a public work in this State for the ~~longer of: (1) 4 years after the date on which the Labor Commissioner becomes aware of the exclusion; or (2) the length of the~~ term of the debarment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.017 is hereby amended to read as follows:

338.017 1. If any administrative penalty is imposed *pursuant to this chapter* against a person for the commission of an offense ~~for~~

~~1. That~~, that person, and the corporate officers, if any, of that person, may not be awarded a contract for a public work:

(a) For the first offense, for a period of 3 years after the date of the imposition of the administrative penalty; and

(b) For the second or subsequent offense, for a period of 5 years after the date of the imposition of the administrative penalty.

2. A person, and the corporate officers, if any, of that person, who is identified in the System for Award Management Exclusions operated by the General Services Administration as being excluded from receiving contracts from the Federal Government pursuant to 48 C.F.R. §§ 9.400 et seq. as a result of being debarred may not be awarded a contract for a public work ~~for~~

~~(a) For a period of 4 years after the date on which the Labor Commissioner is made aware of the exclusion from receiving contracts from the Federal Government; or~~

~~(b) For the period of debarment of the contractor from receiving contracts from the Federal Government.~~

~~whichever is longer.~~

3. The Labor Commissioner, upon learning that a contractor has been excluded from receiving contracts from the Federal Government pursuant to 48 C.F.R. §§ 9.400 et seq. as a result of being debarred, shall disqualify the contractor from being awarded a contract for a public work as provided in subsection 2.

4. The Labor Commissioner shall notify the State Contractors' Board of each contractor who is prohibited or disqualified from being awarded a contract for a public work pursuant to this section.

Sec. 2. (Deleted by amendment.)

MARK LIPPARELLI

DAVID R. PARKS

Senate Conference Committee

JIM WHEELER

MARILYN KIRKPATRICK

Assembly Conference Committee

Senator Lipparelli moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 340.

Remarks by Senator Lipparelli.

The Conference Committee agreed to amend the bill to align the period of disbarment at both the federal and State level. Essentially, the period of disbarment, as set out in the federal system of award management and exclusions, would be the outer edge of when the disbarment would be applicable for the State of Nevada.

Motion carried by a constitutional majority.

Mr. President:

Your Conference Committee concerning Senate Bill No. 482, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 930 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

Conference Amendment No. 2.

SUMMARY—Makes various changes relating to elected county officers. (BDR 20-1117)

AN ACT relating to public officers; increasing the compensation of elected county officers except in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the annual compensation to be paid to district attorneys, sheriffs, county clerks, county assessors, county recorders, county treasurers and public administrators. (NRS 245.043) This bill increases the annual compensation for those officers by 3 percent each fiscal year for Fiscal Years 2015-2016, 2016-2017, 2017-2018 and 2018-2019, unless the board of county commissioners determines that sufficient financial resources are not available to pay the increased salaries.

Existing law authorizes each board of county commissioners, by a majority vote of all the members of the board to set the members' annual salary within certain statutory limitations. (NRS 245.043) This bill: (1) eliminates this authority; and (2) sets forth the salaries for members for Fiscal Years 2015-2016, 2016-2017, 2017-2018 and 2018-2019. The salaries are increased by 3 percent in each fiscal year, unless the board of county commissioners determines that sufficient financial resources are not available to pay the increased salaries.

This bill also authorizes an elected officer, including a county commissioner, to elect not to receive any part of the salary to which he or she is entitled.

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

Section 1. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

(a) "County" includes Carson City.

(b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided in subsection 5 and by any special law, the elected officers of the counties of this State are entitled to receive, for the appropriate fiscal year, annual salaries

in the base amounts specified in the following table ~~[]~~ *commencing on July 1 of the fiscal year.*
The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

ANNUAL SALARIES

Class	County	District Attorney	Sheriff	County Clerk	County Assessor	County Recorder	County Treasurer	Public Administrator
1	Clark							
[	FY 2007-2008	\$166,647	\$143,661	\$97,518	\$97,518	\$97,518	\$97,518	\$97,518
—	FY 2008-2009	171,647	147,971	100,443	100,443	100,443	100,443	100,443
—	FY 2009-2010	176,796	152,410	103,456	103,456	103,456	103,456	103,456
—	FY 2010-2011	182,100	156,983	106,560	106,560	106,560	106,560	106,560]
	FY 2015-2016	\$187,563	\$161,692	\$109,757	\$109,757	\$109,757	\$109,757	\$109,757
	FY 2016-2017	\$193,190	\$166,543	\$113,050	\$113,050	\$113,050	\$113,050	\$113,050
	FY 2017-2018	\$198,986	\$171,540	\$116,441	\$116,441	\$116,441	\$116,441	\$116,441
	FY 2018-2019	\$204,955	\$176,685	\$119,934	\$119,934	\$119,934	\$119,934	\$119,934
2	Washoe							
[	FY 2007-2008	147,109	118,376	89,391	89,391	89,391	89,391	89,391
—	FY 2008-2009	151,522	121,928	92,073	92,073	92,073	92,073	92,073
—	FY 2009-2010	156,068	125,585	94,835	94,835	94,835	94,835	94,835
—	FY 2010-2011	160,750	129,353	97,680	97,680	97,680	97,680	97,680]
	FY 2015-2016	165,573	133,234	100,610	100,610	100,610	100,610	100,610
	FY 2016-2017	170,540	137,231	103,629	103,629	103,629	103,629	103,629
	FY 2017-2018	175,656	141,348	106,738	106,738	106,738	106,738	106,738
	FY 2018-2019	180,926	145,588	109,940	109,940	109,940	109,940	109,940
3	Carson City							
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
	Churchill							
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
	Douglas							
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
	Elko							
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----

Humboldt								
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
Lyon								
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
Nye								
[	FY 2007-2008	105,616	87,575	69,563	69,563	69,563	69,563	-----
—	FY 2008-2009	108,785	90,202	71,650	71,650	71,650	71,650	-----
—	FY 2009-2010	112,049	92,909	73,799	73,799	73,799	73,799	-----
—	FY 2010-2011	115,410	95,696	76,013	76,013	76,013	76,013	-----]
	FY 2015-2016	118,872	98,567	78,293	78,293	78,293	78,293	-----
	FY 2016-2017	122,438	101,524	80,642	80,642	80,642	80,642	-----
	FY 2017-2018	126,112	104,570	83,061	83,061	83,061	83,061	-----
	FY 2018-2019	129,895	107,707	85,553	85,553	85,553	85,553	-----
Lander								
[	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
—	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
—	FY 2009-2010	105,823	83,618	61,566	61,566	61,566	61,566	-----
—	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----]
	FY 2015-2016	112,268	88,711	65,305	65,305	65,305	65,305	-----
	FY 2016-2017	115,636	91,372	67,264	67,264	67,264	67,264	-----
	FY 2017-2018	119,105	94,113	69,282	69,282	69,282	69,282	-----
	FY 2018-2019	122,678	96,937	71,361	71,361	71,361	71,361	-----
Storey								
[	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
—	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
—	FY 2009-2010	105,823	83,618	61,566	61,566	61,566	61,566	-----
—	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----]
	FY 2015-2016	112,268	88,711	65,305	65,305	65,305	65,305	-----
	FY 2016-2017	115,636	91,372	67,264	67,264	67,264	67,264	-----
	FY 2017-2018	119,105	94,113	69,282	69,282	69,282	69,282	-----
	FY 2018-2019	122,678	96,937	71,361	71,361	71,361	71,361	-----
White Pine								
[	FY 2007-2008	99,749	78,818	58,023	58,023	58,023	58,023	-----
—	FY 2008-2009	102,741	81,183	59,764	59,764	59,764	59,764	-----
—	FY 2009-2010	105,823	83,618	61,566	61,566	61,566	61,566	-----
—	FY 2010-2011	108,998	86,127	63,403	63,403	63,403	63,403	-----]
	FY 2015-2016	112,268	88,711	65,305	65,305	65,305	65,305	-----
	FY 2016-2017	115,636	91,372	67,264	67,264	67,264	67,264	-----
	FY 2017-2018	119,105	94,113	69,282	69,282	69,282	69,282	-----
	FY 2018-2019	122,678	96,937	71,361	71,361	71,361	71,361	-----
5 Eureka								
[	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009	-----
—	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570	-----
—	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177	-----
—	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832	-----]
	FY 2015-2016	99,060	70,968	58,537	58,537	58,537	58,537	-----
	FY 2016-2017	102,033	73,097	60,293	60,293	60,293	60,293	-----
	FY 2017-2018	105,093	75,290	62,102	62,102	62,102	62,102	-----
	FY 2018-2019	108,246	77,549	63,965	63,965	63,965	63,965	-----

Lincoln							
[	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832
	FY 2015-2016	99,060	70,968	58,537	58,537	58,537	58,537
	FY 2016-2017	102,033	73,097	60,293	60,293	60,293	60,293
	FY 2017-2018	105,093	75,290	62,102	62,102	62,102	62,102
	FY 2018-2019	108,246	77,549	63,965	63,965	63,965	63,965
Mineral							
[	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832
	FY 2015-2016	99,060	70,968	58,537	58,537	58,537	58,537
	FY 2016-2017	102,033	73,097	60,293	60,293	60,293	60,293
	FY 2017-2018	105,093	75,290	62,102	62,102	62,102	62,102
	FY 2018-2019	108,246	77,549	63,965	63,965	63,965	63,965
Pershing							
[	FY 2007-2008	88,014	63,054	52,009	52,009	52,009	52,009
	FY 2008-2009	90,654	64,946	53,570	53,570	53,570	53,570
	FY 2009-2010	93,374	66,894	55,177	55,177	55,177	55,177
	FY 2010-2011	96,175	68,901	56,832	56,832	56,832	56,832
	FY 2015-2016	99,060	70,968	58,537	58,537	58,537	58,537
	FY 2016-2017	102,033	73,097	60,293	60,293	60,293	60,293
	FY 2017-2018	105,093	75,290	62,102	62,102	62,102	62,102
	FY 2018-2019	108,246	77,549	63,965	63,965	63,965	63,965
6 Esmeralda							
[	FY 2007-2008	69,886	56,049	45,508	45,508	45,508	45,508
	FY 2008-2009	71,983	57,730	46,873	46,873	46,873	46,873
	FY 2009-2010	74,142	59,462	48,280	48,280	48,280	48,280
	FY 2010-2011	76,366	61,246	49,728	49,728	49,728	49,728
	FY 2015-2016	78,657	63,083	51,220	51,220	51,220	51,220
	FY 2016-2017	81,017	64,976	52,756	52,756	52,756	52,756
	FY 2017-2018	83,447	66,926	54,339	54,339	54,339	54,339
	FY 2018-2019	85,951	68,933	55,969	55,969	55,969	55,969

↪ ~~[(The)]~~ Except as otherwise provided in subsection 5, the annual salaries set forth in this subsection for Fiscal Year 2018-2019 are effective for that fiscal year and each fiscal year thereafter.

3. ~~[A board of county commissioners may, by a vote of at least a majority of all the members of the board, set the]~~ Except as otherwise provided in subsection 5, the annual salary for ~~[(the)]~~ county commissioners ~~[of that county, but in no event may the annual salary exceed an amount which equals:]~~ commencing on July 1 of the fiscal year is:

- For Fiscal Year ~~[(2007-2008, 131.716)]~~ 2015-2016, 103.00 percent;
- For Fiscal Year ~~[(2008-2009, 136.985)]~~ 2016-2017, 106.09 percent;
- For Fiscal Year ~~[(2009-2010, 142.464)]~~ 2017-2018, 109.273 percent; and
- For Fiscal Year ~~[(2010-2011, 148.163)]~~ 2018-2019 and each fiscal year thereafter, 112.551 percent.

↪ of the amount of the annual salary for the county commissioners of that county that was in effect ~~[by operation of statute]~~ on January 1, ~~[(2003)]~~ 2015.

4. Any elected officer or county commissioner who is entitled to a salary pursuant to subsection 2 or 3 may elect not to receive any part of the salary to which he or she is entitled pursuant to subsection 2 or 3, as applicable.

5. The increased annual salaries for all elected county officers provided for in subsections 2 and 3 for a fiscal year must not be paid in ~~[(that)]~~ a fiscal year if the board of county commissioners determines that sufficient financial resources are not available to pay ~~[(the)]~~ increased annual salaries in that fiscal year and the annual salaries ~~[(provided)]~~ paid for those officers in the immediately preceding fiscal year must continue to be paid. If increased annual salaries are paid in a subsequent fiscal year:

(a) *Those increased annual salaries must be in the amounts provided for in subsections 2 and 3 ~~for that subsequent~~ starting with the first fiscal year ~~14~~ in which increased salaries were not paid because sufficient financial resources were not available.*

(b) *An elected county officer is not entitled to any retroactive payment of the salary increase for any previous fiscal year in which increased annual salaries were not paid.*

Sec. 2. (Deleted by amendment.)

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

PETE GOICOECHEA

MARK LIPPARELLI

KELVIN ATKINSON

Senate Conference Committee

JOHN ELLISON

JAMES OSCARSON

RICHARD CARRILLO

Assembly Conference Committee

Senator Goicoechea moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 482.

Remarks by Senator Goicoechea.

Senate Bill No. 482 is the Elected Official Salary Bill. In this bill, it allowed for a 3 percent increase every year that would be granted by the Board of County Commissioners. However, the Board of County Commissioners could determine that there was not sufficient financial resources and therefore not have to give the 3 percent raise in that year. The bill, prior to the Conference amendment, required that the following year the Board would have to give them a 6 percent raise if they chose to give them one. This amendment now resets the raise if it was not awarded, you do not get it the following year. The Board could consider 3 percent again.

Motion carried by a constitutional majority.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Roberson.

For: Senate Bill No. 123.

To Waive:

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

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

Has been granted effective: Sunday, May 31, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 122.

To Waive:

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

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

Has been granted effective: Sunday, May 31, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

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

Motion carried.

Senate in recess at 5:40 p.m.

SENATE IN SESSION

At 6:25 p.m.
President Hutchison presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Brower moved that Senate Bill No. 512 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Senator Roberson moved that Senate Bill No. 111 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

Senator Harris moved that Assembly Bill No. 221 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 79.

Bill read third time.

Remarks by Senator Roberson.

Senate Bill No. 79 revises the definition of other tobacco products to specify that the term does not include an alternative nicotine product or a vapor product as those terms are defined pursuant to the bill.

The bill establishes that a vapor product is not taxable as another tobacco product regardless of whether or not the nicotine in the product is derived from tobacco. The bill further establishes that an alternative nicotine product that is made or derived from tobacco is considered to be another tobacco product and is subject to regulation and taxation in a manner consistent with other tobacco products.

Additionally, the bill clarifies that any alternative nicotine product or vapor product that is regulated by the United States Food and Drug Administration under certain provisions, are excluded from the definitions of those terms. This act becomes effective on July 1, 2015.

Roll call on Senate Bill No. 79:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 79 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 266.

Bill read third time.

Remarks by Senators Lipparelli, Hammond, Roberson and Atkinson.

SENATOR LIPPARELLI:

Senate Bill No. 266 restructures the Live Entertainment Tax (LET) to establish that the tax, with certain exceptions, is based on an admission charge being paid for the right or privilege to enter or have access to either indoor or outdoor facilities where live entertainment is provided.

The bill establishes provisions requiring LET to be imposed on escort services, certain nude dancing, performances by disc jockeys and certain live entertainment provided at a facility with a maximum occupancy of 15,000 or more.

The current LET rates of 10 percent or 5 percent based on the 7,500-seat threshold are deleted and replaced by a single rate of 9 percent. Provisions of current law requiring the tax to be imposed on food, refreshments and merchandise are also deleted.

The bill specifies that the tax does not apply to any facility with a maximum occupancy of less than 200; live entertainment provided by certain nonprofit organizations, only if the number of tickets offered for sale or distribution to the live entertainment is less than 7,500; live entertainment that is governed by the Nevada Interscholastic Activities Association or is sponsored by an elementary, junior high, middle or high school if only students or faculty provide the live entertainment; athletic events conducted by a professional team based in Nevada; and certain fees retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided.

The bill provides for an annual appropriation of \$150,000 to the Nevada Arts Council, and as a result of the prior amendment, provides an alternative dispute resolution mechanism.

This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks. The provisions authorizing the continuing appropriation to the Nevada Arts Council become effective on July 1, 2015, and all other provisions of the bill become effective on October 1, 2015.

Outside of the technical elements of the bill, the changes contained in this bill also dramatically uncomplicate business decisions, reduce costly software revisions and provide vastly improved operational opportunities for our venues. If successful, we are also making the enforcement of the tax much less complicated for our agencies. While no bill could eliminate a dispute, we believe this bill makes such disputes much less likely and less complicated to resolve. We are changing the focus of LET from its historical terms to admission.

We make clear that we are intending to capture the commercial elements of admission fee transactions. In doing so, we are mindful that some operators may seek to evade the application of the admission tax through some other mechanism of required "minimum purchases" or simply a "baseless" or "diminimous" charge. Those who do so expose themselves to possible audit assessments on the other charges they seek to garner in place of charging admission. If, however, a venue has no admission charge and no required minimum purchase, or elects to discontinue an admission charge, LET would not be triggered.

We provide a mechanism for our taxing authorities to enforce the rules on those who attempt to evade the admission tax through required and baseless secondary purchase requirements.

While balancing this clarity to the admission charge, this bill also is mindful that there are "venue advantages" patrons can garner through purchases after having paid legitimate admission fees. This legislation makes clear that such purchases are not inclusive and not intended to be captured or added as admission charges. They are separate purchases following admission and range broadly from seating, tables and locations within the facilities.

We have chosen to include the activities of DJs to the applicability of the live entertainment. DJs are, for the purposes of our bill, now entertainment akin to singing and dancing as those activities are defined in the bill. I will emphasize again triggered off the admission requirement.

We provide the entertainment venues the opportunity to be innovative with what was formally referred to as ambient entertainment options with clearly worded time limits regarding duration. We also provide that go-go dancing is a clearly stated exemption and no longer requires certain employment obligations.

Mr. President, in closing, I would like to thank the LCB Legal staff as they put a lot of work into this and also the senior people at the Gaming Control Board, specifically Chairman AG Burnett and Member Terry Johnson and their very capable staff for giving us guidance and helping craft this language.

Lastly, I am honored to share the joint sponsorship of this bill with Assemblywoman Marilyn Kirkpatrick. As many of you know, Marilyn has been a constant in working this bill in prior Sessions, and we are at this point because of her diligence.

SENATOR HAMMOND:

Just as a point of clarity from the sponsor, if you are an escort service that decides to have a nonprofit wing and you decide to have a fun run is there an exemption for that in this bill?

SENATOR LIPPARELLI:

I would ask my colleague to state the question again.

SENATOR HAMMOND:

If you have an escort service and you have a nonprofit wing of that and you would like to do a fun run, are you exempt from that?

SENATOR LIPPARELLI:

The escort service would be included as live entertainment. If it is a nonprofit, the capacity of the event would have to exceed 7,500. A fun run would be a sporting event so it would be included if there is an admission charge. In this case, if the participants are the ones providing the entertainment it would be excluded.

SENATOR ROBERSON:

I would like to commend my colleague from Senate District 6. He has worked hard on this, and he is solving a problem that has vexed the Legislature for many years. He is to be commended.

SENATOR ATKINSON:

I rise in support, and I too would like to commend the Senator from District 6, but I received a message. I know we had an amendment to the bill and various opportunities to look at it, but I received a message from someone in the other House. I was told to make sure that I thanked everyone. This person has worked on this issue for only ten years and she, you know who I am talking about, just wanted to make sure I said to my colleagues "she is on board."

Roll call on Senate Bill No. 266:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 266 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 195.

The following Assembly amendment was read:

Amendment No. 951.

SUMMARY—Revises provisions relating to higher education.
(BDR 34-509)

AN ACT relating to education; creating the Office of the Western Regional Higher Education Compact within the Office of the Governor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes the Governor to employ certain persons to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology and the Governor's mansion. (NRS 223.085) Section 4 of this bill additionally authorizes the Governor to employ certain~~

~~persons to provide an appropriate staff for the Office of the Western Regional Higher Education Compact.]~~

Existing law directs the Governor to execute a compact with certain other states for the purpose of forming a Western Interstate Commission for Higher Education. (NRS 397.010) The compact requires the Western Interstate Commission for Higher Education to enter into certain contractual agreements with certain institutions offering graduate or professional education in other member states in order to increase the opportunities for residents of member states to obtain graduate or professional degrees. (NRS 397.020) Sections 3 and 5 of this bill create the Office of the Western Regional Higher Education Compact within the Office of the Governor. Section 5 requires the Governor to propose a budget for the Office and to appoint a Director of the Office, who is in the unclassified service of the State. Section 5 authorizes the Director to employ any necessary personnel, who are in the classified service of the State.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 397.030 is hereby amended to read as follows:

397.030 1. In furtherance of the provisions contained in the Compact, there must be three Commissioners from the State of Nevada, appointed by the Governor ~~[-]~~ *to serve in the Office of the Western Regional Higher Education Compact created by section 5 of this act.*

2. The qualifications and terms of the three Nevada State Commissioners must be in accordance with Article 4 of the Compact. A Nevada State Commissioner shall hold office until his or her successor is appointed and qualified, but the successor's term expires 4 years after the legal date of expiration of the term of his or her predecessor.

3. Any Nevada State Commissioner may be removed from office by the Governor upon charges and after a hearing.

4. The term of any Nevada State Commissioner who ceases to hold the required qualifications terminates when a successor is appointed.

Sec. 4. NRS 223.085 is hereby amended to read as follows:

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology, *the Office of the Western Regional Higher Education Compact* and the Governor's mansion. ~~[Any]~~ Except as otherwise provided by specific statute, such employees are not in the classified or unclassified service of the State and, except as otherwise provided in NRS 231.043 and 231.047, ~~and section 5 of this act,~~ serve at the pleasure of the Governor.

2. ~~[The]~~ Except as otherwise provided by specific statute, the Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; or

(b) Designate the Administrator as the Chief Information Officer of the State.

➡ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

Sec. 5. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *There is hereby created within the Office of the Governor the Office of the Western Regional Higher Education Compact.*

2. *The Governor shall propose a budget for the Office of the Western Regional Higher Education Compact.*

3. ~~[Employees]~~ The Governor shall appoint a Director of the Office of the Western Regional Higher Education Compact. ~~[are not]~~ The Director is in the ~~[classified or]~~ unclassified service of the State and ~~[serve]~~ serves at the pleasure of the Governor.

4. The Director may, within the limits of available money, employ such additional personnel as may be required to carry out the duties of the Office of the Western Regional Higher Education Compact, who must be in the classified service of the State.

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

Senator Harris moved that the Senate concur in Assembly Amendment No. 951 to Senate Bill No. 195.

Remarks by Senator Harris.

The amendment requires the Governor to propose a budget for the office and to appoint a Director. It also empowers the Director to appoint office staff.

Motion carried by a constitutional majority.

Bill ordered enrolled.

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 275.

To Waive:

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

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).
Has been granted effective: Saturday, May 30, 2015.

MICHAEL ROBERSON
Senate Majority Leader

JOHN HAMBRICK
Speaker of the Assembly

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

Motion carried.

Senate in recess at 6:39 p.m.

SENATE IN SESSION

At 9:28 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Concurrent Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

PATRICIA FARLEY, *Chair*

Mr. President:

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of Amendment No. 1040 to Senate Bill No. 512.

JAMES A. SETTELMAYER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 31, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 483, Amendment No. 1039, and respectfully requests your honorable body to concur in said amendment.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Senate Bill No. 433 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Kieckhefer moved that Senate Concurrent Resolution No. 6 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 111.

Bill read third time.

Remarks by Senators Kieckhefer and Atkinson.

SENATOR KIECKHEFER:

Senate Bill No. 111 requires each uniformed peace officer employed by the Nevada Highway Patrol Division, Department of Public Safety, who routinely interacts with the public, to wear a portable event recording device while on duty. A portable event recording device is defined as a device to be worn on the peace officers body which records both audio and visual events, during an encounter with a member of the public, while performing his or her duties as a peace officer.

The bill requires the Nevada Highway Patrol Division, Department of Public Safety, to adopt policies and procedures governing the use of portable event recording devices on or before July 1, 2016. Senate Bill No. 111 appropriates State Highway Funds to the Nevada Highway Patrol Division, Department of Public Safety, in the amount of \$785,002 in FY 2016 and \$475,104 in FY 2017. The bill is effective upon passage and approval for purposes of adopting policies and procedures. Section 6.7 providing Highway Fund appropriations for the event recording devices becomes effective on July 1, 2015. For all other purposes, the act is effective January 1, 2017.

SENATOR ATKINSON:

I rise in support of S.B. No. 111. I would like to say thank you, the Chair of Finance and my colleague to my immediate right for allowing me to part of a piece of legislation that is not only important for our peace officers but important for our citizens. With everything we have had going on with our Nation the last couple years, there has not been a bigger cry in some of the under-served communities and folks who belief that there are issues. They have come to us and have asked us to at least make this effort. This is not perfect. I know my good friend from Senate District 15 follows me on Twitter, and if you do, you will know this is one of the topics that I engage with a lot with some our folks.

The truth is there are pros and cons. However, I do believe this effort is an opportunity to move us forward. As our Minority Leader and I have mentioned, this is not perfect, but it gets us a little further down the road to making peace and provides opportunities for folks to have some type of reprieve. This is important to folks. Again, we will study this as we go along. The amount we are paying for this, in my opinion, is not excessive because lawsuits are a lot more expensive than this. My good friend from Eureka, I know you are with us.

Roll call on Senate Bill No. 111:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 111 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 512.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 1040.

SUMMARY—Abolishes the Foreclosure Mediation Program. (BDR 9-1287)

AN ACT relating to real property; abolishing the Foreclosure Mediation Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the establishment of a foreclosure mediation program and generally requires that mediation, unless waived, be conducted as a condition of a judicial foreclosure proceeding or the exercise of a power of sale affecting owner-occupied housing. The Nevada Supreme Court is

required to adopt rules to implement the foreclosure mediation program. (NRS 40.437, 107.086) Section 12 of this bill repeals those statutes, effective on June 30, 2017, effectively ending the program on that date. Sections 2.5 and 8.5 of this bill make December 31, 2016, the last date on which a homeowner can enroll in the foreclosure mediation program and provide that persons initiating foreclosures after December 1, 2016, need not provide notice of the mediation program. Sections ~~[1-11]~~ 1, 2, 3-8 and 9-11 of this bill make conforming changes.

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

Section 1. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210 ~~[]~~ and 107.085, ~~[and 107.086,]~~ if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing, ~~[as defined in NRS 107.086,]~~ the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of

sale. Except as otherwise provided in subparagraph (5), the affidavit required by this paragraph must state under the penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.

(2) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:

(I) The holder of the instrument;

(II) A nonholder in possession of the instrument who has the rights of a holder; or

(III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.

(3) That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:

(I) The amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;

(II) The amount in default;

(III) The principal amount of the obligation or debt secured by the deed of trust;

(IV) The amount of accrued interest and late charges;

(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

(VI) Contact information for obtaining the most current amounts due and the local or toll-free telephone number described in subparagraph (4).

(4) A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.

(5) The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:

(I) The direct, personal knowledge of the affiant;

(II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;

(III) Information contained in the records of the recorder of the county in which the property is located; or

(IV) The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.

➡ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time-share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) The beneficiary or its successor in interest or the servicer of the obligation or debt secured by the deed of trust has instructed the trustee to exercise the power of sale with respect to the property.

(e) Not less than 3 months have elapsed after the recording of the notice or, if the notice includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration

must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2;

(b) If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510;

(c) If, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of NRS 107.130; and

(d) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS ~~107.086 and~~ 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 45 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 15 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 60 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection 2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,

➡ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) ~~[A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~—(c)]~~ A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to ~~{paragraphs}~~ paragraph (a) ~~{and (b)}~~ of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund . ~~[or the Account for Foreclosure Mediation as prescribed pursuant to subsection 11.]~~ The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund . ~~[or the Account as prescribed in subsection 11.]~~

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) *"Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.*

(b) "Residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, "single family residence":

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

~~[(b)]~~ (c) "Trustee" means the trustee of record.

Sec. 2. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(bb), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS ~~[107.086.]~~ 107.080.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS ~~[107.086.]~~ 107.080:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In not less than 60 days your home may be sold and you may be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Mortgage Lending _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 2.5. NRS 107.086 is hereby amended to read as follows:

107.086 1. Except as otherwise provided in this subsection, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing and for which a notice of default and election to sell is mailed on or before December 1, 2016, to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080 is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record will be enrolled to participate in mediation pursuant to this section if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;

(c) Serves a copy of the notice upon the Mediation Administrator; and

(d) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4 or 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 8 which provides that mediation has been completed in the matter.

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080 ~~or~~ or December 31, 2016, whichever is earlier, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee and the Mediation Administrator by certified mail, return receipt requested. If the grantor or the person who holds the title of record does not elect to waive mediation, he or she shall, not later than 30 days after the service of the

notice in the manner required by NRS 107.080 ~~or~~ or December 31, 2016, whichever is earlier, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11. Upon receipt of the share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the trustee, by certified mail, return receipt requested, of the enrollment of the grantor or person who holds the title of record to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation. If the grantor or person who holds the title of record is enrolled to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.

4. If the grantor or the person who holds the title of record indicates on the form described in subparagraph (4) of paragraph (a) of subsection 2 an election to waive mediation or fails to pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11, as required by subsection 3, the Mediation Administrator shall, not later than 60 days after the Mediation Administrator receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier, provide to the trustee a certificate which provides that no mediation is required in the matter.

5. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 11. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

6. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 5 or does not have the authority or access to a person with the authority required by subsection 5, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary

of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

7. If the grantor or the person who holds the title of record is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, the Mediation Administrator shall, not later than 30 days after the scheduled mediation, provide to the trustee a certificate which states that no mediation is required in the matter.

8. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall, not later than 30 days after submittal of the mediator's recommendation that the matter be terminated, provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

9. Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall notify the unit-owners' association organized under NRS 116.3101 of the existence of the certificate.

10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

12. Except as otherwise provided in subsection 14, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

13. A noncommercial lender is not excluded from the application of this section.

14. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

15. As used in this section:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Mediation Administrator" means the entity so designated pursuant to subsection 11.

(c) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(d) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(e) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Sec. 3. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom

the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS ~~[107.086,]~~ 107.080, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. NRS 107.450 is hereby amended to read as follows:

107.450 "Residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~[107.086,]~~ 107.080.

Sec. 5. NRS 107.460 is hereby amended to read as follows:

107.460 The provisions of NRS 107.400 to 107.560, inclusive, do not apply to a financial institution, as defined in NRS 660.045, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined in NRS ~~[107.086,]~~ 107.080.

Sec. 6. NRS 107.480 is hereby amended to read as follows:

107.480 1. In addition to the requirements of NRS 107.085 , ~~and~~ ~~107.086,]~~ the exercise of a trustee's power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to 107.560, inclusive.

2. In addition to the requirements of NRS 40.430 to 40.4639, inclusive, a civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan is subject to the requirements of NRS 107.400 to 107.560, inclusive.

Sec. 7. NRS 107.550 is hereby amended to read as follows:

107.550 1. A civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan must be dismissed without prejudice, any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 must be rescinded, and any pending foreclosure sale must be cancelled, if:

(a) The borrower accepts a permanent foreclosure prevention alternative;

(b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or

(c) A foreclosure sale is not conducted within 90 calendar days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. The periods specified in paragraphs (b) and (c) of subsection 1 are tolled:

(a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13, until the bankruptcy court enters an order closing or dismissing the bankruptcy case or granting relief from a stay of foreclosure or trustee's sale;

~~(b) If mediation pursuant to NRS 107.086 is required, until the date on which the Mediation Administrator, as defined in NRS 107.086, issues the certificate that mediation has been completed in the matter;~~

~~—(e)— If mediation pursuant to NRS 40.437 is required or if a court orders participation in a settlement program, until the date on which the mediation or participation in a settlement program is terminated; or~~

~~—(d)—~~ (c) If a borrower has submitted an application for a foreclosure prevention alternative, until the date on which:

(1) A written offer for a foreclosure prevention alternative is submitted to the borrower;

(2) A written statement of the denial of the application has been submitted to the borrower pursuant to subsection 4 of NRS 107.530, and any appeal period pursuant to subsection 5 of NRS 107.530 has expired; or

(3) If the borrower has appealed the denial of an application for a foreclosure prevention alternative, a written offer for a foreclosure prevention alternative or a written denial of the appeal is submitted to the borrower.

3. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 is rescinded, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Sec. 8. NRS 2.125 is hereby amended to read as follows:

2.125 The Supreme Court may adopt rules providing for voluntary mediation with respect to:

~~—1.— A homeowner who is not in default but is at risk of default.~~

~~—2.— A] a small business whose commercial property is in default. If the Supreme Court adopts such rules, the Supreme Court shall consider:~~

~~—(a)— 1. The goals and purposes of the mediation process;~~

~~—(b)— 2. The necessity, efficiency and desirability of allowing mediation for the various types of commercial property; and~~

~~—(c)— 3. Any other factor that is relevant in determining whether allowing mediation under the circumstances is in the best interests of the residents, businesses and governmental entities in this State.~~

Sec. 8.5. NRS 40.437 is hereby amended to read as follows:

40.437 1. ~~{If a}~~ A civil action for a foreclosure sale pursuant to NRS 40.430 affecting owner-occupied housing that is commenced in a court of competent jurisdiction ~~{on or before December 1, 2016, is subject to the provisions of this section.}~~

2. In a civil action described in subsection 1:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the mortgagor has the right to seek mediation pursuant to this section; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the mortgagor may use to comply with the provisions of subsection ~~{2;} 3;~~ and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

~~{2;} 3.~~ 3. The mortgagor shall, not later than the date on which an answer to the complaint is due ~~{;} or December 31, 2016, whichever is earlier,~~ complete the form required by subparagraph (4) of paragraph (a) of subsection ~~{;} 2~~ and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor indicates on the form an election to enter into mediation, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form an election to waive mediation or fails to file the form with the court and return a copy of the form to the plaintiff as required by this subsection, no mediation is required in the action.

~~{3;} 4.~~ 4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 11 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

~~{4.}~~ 5. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection ~~{3.}~~ 4, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

~~{5.}~~ 6. If the mortgagor elected to enter into mediation and fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had not elected to enter into mediation.

~~{6.}~~ 7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

~~{7.}~~ 8. The rules adopted by the Supreme Court pursuant to subsection 11 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

~~{8.}~~ 9. Except as otherwise provided in subsection ~~{10.}~~ 11, the provisions of this section do not apply if:

(a) The mortgagor has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~{9.}~~ 10. A noncommercial lender is not excluded from the application of this section.

~~{10.}~~ 11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

~~{11.}~~ 12. As used in this section:

(a) "Mediation Administrator" has the meaning ascribed to it in NRS 107.086.

(b) "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

(c) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 9. Section 2 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 2. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5 ~~[5, 6]~~ or ~~[7,]~~ 6, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT
SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR
HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) The association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

↳ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

(1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(2) A proposed repayment plan; and

(3) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.

6. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

~~[7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

~~— (a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (c) of subsection 2 of NRS 107.086; or~~

~~— (b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 10 of NRS 107.086.]~~

Sec. 10. Section 8.5 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 8.5. Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A bank, credit union, savings bank, savings and loan association, thrift company or other financial institution which is licensed, registered or otherwise authorized to do business in this State and which is the mortgagee or beneficiary of a deed of trust under a residential mortgage loan shall provide to the Division of Financial Institutions the name, street address and any other contact information of a person to whom ~~[-~~

~~— (a) A borrower or a representative of a borrower must send any document, record or notification necessary to facilitate a mediation conducted pursuant to NRS 40.437 or 107.086.~~

~~— (b) A] a unit-owners' association must send any notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive.~~

2. The Division of Financial Institutions shall maintain on its Internet website the information provided to the Division pursuant to subsection 1 and provide a prominent display of, or a link to, the information described in subsection 1, on the home page of its Internet website.

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

~~— (a) "Borrower" means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.~~

~~—(b) "Residential"~~ , "residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~[107.086.]~~ 107.080.

Sec. 11. Any balance remaining in the Account for Foreclosure Mediation created by NRS 107.080 that has not been committed for expenditure before June 30, 2017, must be reverted to the State General Fund.

Sec. 12. NRS 40.437 and 107.086 are hereby repealed.

Sec. 13. 1. This section and sections 2.5 and 8.5 of this act become effective on passage and approval.

2. Sections 1, 2 and 3 to 8, inclusive, and 9 to 12, of this act ~~[becomes]~~ become effective on June 30, 2017.

TEXT OF REPEALED SECTIONS

40.437 Additional requirements for action affecting owner-occupied housing; Notice; form; election of mediation; rules concerning mediation; applicability.

1. A civil action for a foreclosure sale pursuant to NRS 40.430 affecting owner-occupied housing that is commenced in a court of competent jurisdiction on or before December 1, 2016, is subject to the provisions of this section.

2. In a civil action described in subsection 1:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the mortgagor has the right to seek mediation pursuant to this section; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the mortgagor may use to comply with the provisions of subsection 3; and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

3. The mortgagor shall, not later than the date on which an answer to the complaint is due or December 31, 2016, whichever is earlier, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor indicates on the form an election to enter into mediation, the plaintiff shall notify any person with

an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form an election to waive mediation or fails to file the form with the court and return a copy of the form to the plaintiff as required by this subsection, no mediation is required in the action. 4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 11 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

5. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the mortgagor elected to enter into mediation and fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had not elected to enter into mediation.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

8. The rules adopted by the Supreme Court pursuant to subsection 11 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The mortgagor has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" has the meaning ascribed to it in NRS 107.086.

(b) "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

(c) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

107.086 Additional requirements for sale of owner-occupied housing: Notice; form; enrollment in mediation; election to waive mediation; adoption of rules concerning mediation; applicability.

1. Except as otherwise provided in this subsection, in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing and for which a notice of default and election to sell is mailed on or before December 1, 2016, to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080 is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record will be enrolled to

participate in mediation pursuant to this section if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;

(c) Serves a copy of the notice upon the Mediation Administrator; and

(d) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4 or 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 8 which provides that mediation has been completed in the matter.

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080 or December 31, 2016, whichever is earlier, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee and the Mediation Administrator by certified mail, return receipt requested. If the grantor or the person who holds the title of record does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by NRS 107.080 or December 31, 2016, whichever is earlier, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11. Upon receipt of the share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the trustee, by certified mail, return receipt requested, of the enrollment of the grantor or person who holds the title of record to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt

requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation. If the grantor or person who holds the title of record is enrolled to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.

4. If the grantor or the person who holds the title of record indicates on the form described in subparagraph (4) of paragraph (a) of subsection 2 an election to waive mediation or fails to pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11, as required by subsection 3, the Mediation Administrator shall, not later than 60 days after the Mediation Administrator receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier, provide to the trustee a certificate which provides that no mediation is required in the matter.

5. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 11. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

6. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 5 or does not have the authority or access to a person with the authority required by subsection 5, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

7. If the grantor or the person who holds the title of record is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, the Mediation Administrator shall, not later than 30 days after the scheduled mediation, provide to the trustee a certificate which states that no mediation is required in the matter.

8. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and

submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall, not later than 30 days after submittal of the mediator's recommendation that the matter be terminated, provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

9. Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall notify the unit-owners' association organized under NRS 116.3101 of the existence of the certificate.

10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

12. Except as otherwise provided in subsection 14, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

13. A noncommercial lender is not excluded from the application of this section.

14. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

15. As used in this section:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Mediation Administrator" means the entity so designated pursuant to subsection 11.

(c) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(d) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(e) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Senator Brower moved the adoption of the amendment.

Remarks by Senators Brower, Harris and Kieckhefer.

SENATOR BROWER:

This is what we might call a technical amendment that changes the date or imposes a deadline of December 31, 2016, as the last day on which a homeowner can enroll in the Foreclosure Mediation Program. This accommodates the end date of the program which is in 2017.

SENATOR HARRIS:

I have a concern about the summary that uses the word abolishes. It is my understanding that as this bill traveled through the finance committees that there was actually talk of ending the program this Legislative Session. Although, it says that this actually abolishes, it is actually extending the Foreclosure Mediation Program for another 18 months to continue to help homeowners. Maybe if there is still needed relief for the next Legislative Session, we will be in a position to be able to provide that relief. That is certainly my hope. This is a great program. It is a wonderful opportunity for homeowners to sit down with their lenders. I just could not let that horrible word "abolish" go without clarifying it.

SENATOR KIECKHEFER:

Senator Harris summarized the intent of the bill perfectly.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Motion carried.

Senate in recess at 9:39 p.m.

SENATE IN SESSION

At 9:44 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 512.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 512 provides that no application for the Foreclosure Mediation Program may be filed after December 31, 2016. A person who initiates a foreclosure after December 31, 2016, need not provide notice to the Mediation program. The program ends June 30, 2017.

Roll call on Senate Bill No. 512:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 512 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 348, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 791 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

Conference Amendment No. 6.

SUMMARY—Revises provisions governing unclaimed property. (BDR 10-770)

AN ACT relating to unclaimed property; exempting certain property due or owing from a business association to another business association from provisions governing the disposition of unclaimed property under certain circumstances; exempting certain intersection improvement proceeds from provisions governing the disposition of unclaimed property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS) Under existing law, property that is unclaimed by the apparent owner of the property for a certain period is presumed to be abandoned. (NRS 120A.500, 120A.510, 120A.520) A holder of property that is presumed to be abandoned must make a report concerning the property to the State Treasurer, acting as the Administrator of Unclaimed Property, and pay or deliver the property to the Administrator. (NRS 120A.560, 120A.570) The Administrator must deposit any money received as abandoned property and the proceeds of any sale of abandoned property in the Abandoned Property Trust Account. (NRS 120A.620) A person who claims property paid or delivered to the Administrator may file a claim for the property, and, if the Administrator approves the claim, the Administrator must deliver the property to the claimant or, if the property is money or the net proceeds of a sale of abandoned property, pay the claim from the Account. (NRS 120A.620, 120A.640) At the end of each fiscal year, the first \$7.6 million of the balance remaining in the Account is transferred to the Millennium Scholarship Trust Fund, and the remaining balance is transferred to the State General Fund, subject to any valid claims. (NRS 120A.620)

Section 1 of this bill provides that certain amounts due or owing from a holder that is a business association to another business association must not be presumed abandoned if the holder and the other business association have an ongoing business relationship. Because these amounts must not be presumed abandoned, the provisions of existing law governing unclaimed property would not apply to those amounts. Under section 2 of this bill, the provisions of section 1 apply to the amounts due or owing from a business association to another business association that ~~(1) arise from transactions occurring on or after July 1, 2015, (2) are in the possession, custody or control of a business association.~~

Section 1.5 of this bill provides that certain amounts paid to this State or a local government as a deposit or fee to provide security for, or to fund the construction of, certain intersection improvement projects are exempt from the provisions of existing law governing unclaimed property. Under section 2, this exemption applies only to such deposits or fees that, on or after July 1, 2015, are in the possession, control or custody of this State or a local government.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this subsection, any credit memoranda, overpayments, credit balances, deposits, unidentified remittances, nonrefunded overcharges, discounts, refunds and rebates due or owing from a holder that is a business association to another business association shall not be presumed abandoned if the holder and such business association have an ongoing business relationship. The provisions of this subsection do not apply to outstanding checks, drafts or other similar instruments.*

2. *For the purposes of subsection 1, an ongoing business relationship shall be deemed to exist if the holder has engaged in at least one commercial, business or professional transaction involving the sale, lease, license or purchase of goods or services with the business association or a predecessor-in-interest of the business association within each 3-year period that follows the date of the transaction giving rise to the property interest that shall not be presumed abandoned pursuant to subsection 1.*

Sec. 1.5. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to ~~(gaming)~~:

(a) Gaming chips or tokens which are not redeemed at an establishment.

(b) Intersection improvement project proceeds.

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value other than a slot machine wagering voucher as defined in NRS 463.369.

(c) "Intersection improvement project" means construction or improvements relating to intersections, including, without limitation, the construction, installation or upgrade of traffic control devices, turn lanes and appurtenances.

(d) "Intersection improvement project proceeds" means amounts held by this State or an agency or political subdivision of this State that were paid to the State or the agency or political subdivision for the purpose of providing security for, or to fund the construction of, an intersection improvement project.

Sec. 2. 1. The amendatory provisions of section 1 of this act apply to all amounts due or owing from a business association to another business association that ~~(1) arise from transactions occurring on or after July 1, 2015, (2) are in the possession, custody or control of a business association.~~

2. The amendatory provisions of section 1.5 of this act apply only to intersection improvement project proceeds that, on or after July 1, 2015, are in the possession, custody or control of this State or an agency or political subdivision of this State.

3. As used in this section:

(a) "Business association" has the meaning ascribed to it in NRS 120A.040.

(b) "Intersection improvement project proceeds" has the meaning ascribed to it in NRS 120A.135, as amended by section 1.5 of this act.

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

GREG BROWER

MICHAEL ROBERSON

AARON D. FORD

Senate Conference Committee

IRA HANSEN

PHILIP "P. K." O'NEILL

DINA NEAL

Assembly Conference Committee

Senator Brower moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 348.

Motion carried by a constitutional majority.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 4, 60, 89, 168, 276, 302, 374, 391, 414, 474; Senate Resolution No. 8; Assembly Bills Nos. 8, 23, 34, 49, 50, 51, 67, 69, 93, 115, 126, 138, 161, 178, 191, 199, 234, 239, 328, 470, 477, 486.

Senator Roberson moved that the Senate adjourn until Monday, June 1, 2015, at 9:00 a.m.

Motion carried.

Senate adjourned at 9:47 p.m.

Approved:

MARK A. HUTCHISON

President of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate