THE ONE HUNDRED AND EIGHTEENTH DAY

CARSON CITY (Saturday), June 3, 2017

Senate called to order at 11:03 a.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by Senator Hardy.

Our Father in Heaven, we are grateful to be here together. We are thankful for the family atmosphere we have that allows us to have disagreements and then find ourselves agreeing as we get together in philosophy and principles. We are grateful for the opportunity we have to serve, and we ask that we might do so in such a way we will be able to find peace and happiness and be able to extend that feeling to others. We are appreciative of the talents and abilities we have, for the physical health that we have. We are thankful for those who have been blessed during this time with stamina and energy. Continue to bless us, we pray, through these next few days.

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 Commerce, Labor and Energy, to which was referred Senate Bill No. 554, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 405, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 391, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 207, 326, 421, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 94, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JULIA RATTI, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 2, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 126, 150, 189, 244, 414, 533, 534.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 487.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 448, Amendments Nos. 769, 937, 958, 1034; Senate Bill No. 481, Amendment No. 889, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

REMARKS FROM THE FLOOR

Senator Woodhouse requested that the following remarks be entered in the Journal.

SENATOR WOODHOUSE:

Today, I have some very special guests. The first is Cindy Clampitt who is retiring from the staff of the Committee on Finance. She has been a trooper, and we are sorry to see her go. We want her to enjoy time with her family and friends. We are presenting her a proclamation along with flowers to her today. Cindy was born in Nebraska, came to Mill City, Nevada, and spent her entire life serving others and has continued to do so. We would thank her for her service to the State of Nevada and all of us who live here.

Here today as well are Lona Domenici and Arzella Moots who also worked with the Committee on Finance.

I would now like to present the proclamation to Cindy Clampitt for all of the wonderful service she has given to us as friends and professionals here in the State Legislature. You are an awesome lady, and we appreciate you so much.

SENATOR KIECKHEFER:

I would also like to say a big thank you to Cindy for all of her work. She is truly a shining light in this building. I had the privilege of having my office directly across from the Senate Finance staff office, and Cindy is a consummate professional and one of the stars of this building in terms of quality of person. The entire Finance staff is blessed with great people; we talked about Mike yesterday and then there is Lona and Arzella. When walking into this building, one is not always in the best of moods, but Cindy is always able to make me smile and improve my mood. That is a unique skill, and we appreciate it on a personal level. We appreciate as well all the work you do for our State in making sure we get our business done. Thank you and congratulations. We appreciate you.

SENATOR GOICOECHEA:

I also rise to recognize Cindy who is a close family friend. A little known fact is that she did put in a short tenure in Eureka County in the school system. My wife and Cindy have been friends for a long time, and I thank her for that as well as her service here in the building. Thank you, Cindy.

SPECIAL ORDERS OF THE DAY

VETO MESSAGES OF THE GOVERNOR

The hour of 11:15 a.m. having arrived, vetoed Senate Bills Nos. 140, 173, 196, 356, 374, 416, 434, 469 were considered.

Vetoed Senate Bill No. 140.

Bill read.

The Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 25, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am here with forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 140 (S.B. 140), which is entitled:

AN ACT relating to offenders; authorizing the residential confinement or other appropriate supervision of certain older offenders; providing other matters properly relating thereto.

S.B. 140 has a noble goal, but it poses risks that are not justified by the purported benefits of changing the law. Current law already permits the Director of the Department of Corrections to allow certain inmates to serve out the remainder of their sentences in residential confinement. While S.B. 140 would expand the list of inmates eligible for residential confinement, testimony offered during the Senate Judiciary Committee's review of the bill estimated that the actual number of newly eligible inmates would be very low.

Additionally, the bill implicates questions related to fairness and public safety. Age alone is not a compelling reason to extend benefits to some inmates which are not afforded to others, especially when older inmates may, in certain instances, present a greater safety risk than younger inmates.

Finally, all inmates have the constitutional right to seek a pardon for the remainder of their sentence. Age and length of time served are factors the Board of Pardons Commissioners regularly considers when deciding a request for a pardon. No evidence has been presented that the system is not working as it should.

For these reasons, I veto Senate Bill No. 140.

Sincerely,
BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 140.

Motion carried.

Vetoed Senate Bill No. 173.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

May 26, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 173 (S.B. 173), with is entitled:

AN ACT relating to education; revising provisions concerning the applicability of prevailing wage requirements and certain building standards and requirements to

construction projects relating to achievement charter schools; and proving other matters properly related thereto.

During the 2015 Legislative Session, the Legislature approved comprehensive and foundational reforms designed to expand educational opportunities and promote greater student achievement for all of Nevada's learners. The achievement School District was, and continues to be, a key component of that comprehensive effort to fundamentally reform education across Nevada. The establishment of the Achievement School District introduced a heightened level of attention and accountability on behalf of the State's most chronically underperforming schools, resulting in expanded opportunities for students to achieve their fullest potential and pursue success in the classroom and beyond.

While the goals behind S.B. 173 may be laudable, this legislation will unquestionably result in high construction costs for school facilities that need every available took to improve performance and foster student success. Current law exempts achievement school facilities from prevailing wage requirements. This exemption reflects a policy decision to extend as much support as possible to Nevada's underperforming schools by reducing barriers, financial and otherwise, that may act as impediments to their improvement efforts. By eliminating the prevailing wage exemption for Achievement School District facilities, S.B. 173 would simply make it more difficult for these institutions to fully leverage their resources in a way that affords the maximum benefits for the students they serve.

For these reasons, I veto this bill and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 173.

Motion carried.

Vetoed Senate Bill No. 196.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

June 1, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 196 (S.B. 196), which is entitled:

AN ACT relating to employment; requiring certain employers in private employment to provide paid sick leave to each full-time employee of the employer under certain circumstances; providing an exception; providing a penalty; and providing other matters properly relating thereto.

It is the goal of all policy makers to support legislation that benefits Nevada's workforce and families. S.B. 196 seeks to accomplish this goal by requiring businesses with twenty-five or more employees to provide paid sick leave to full-time employees.

Of course, the mandates of S.B. 196 come with a substantial cost to businesses, particularly small businesses. In addition, the decision to provide employee benefits is one reserved to a business owner who must respond to the demands of a competitive job market.

Indeed, among others, the Las Vegas Metro Chamber of Commerce, Latin Chamber of Commerce, Henderson Chamber of Commerce, Reno-Sparks Chamber of Commerce, and the Nevada Retailers Association, who represent thousands of businesses across Nevada, all registered their opposition to S.B. 196 because of the impact on their members. Some indicated that the unintended consequences of this bill would be reduced hours, fewer employees, more temporary employees, and higher administrative costs.

Nevada is experiencing record economic growth. Weekly wages, small business employment, and overall employment are at all-time highs. Nevada is being recognized as a business friendly state and is experiencing new and diverse economic expansion.

S.B. 196 presents a substantial economic burden on small business, upsets competition for employees, and could hinder Nevada's business friendly reputation.

For these reasons, I veto S.B. 196 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 196.

Motion carried.

Vetoed Senate Bill No. 356.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

June 1, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 356 (S.B. 356), which is entitled:

> AN ACT relating to collective bargaining; increasing the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; removing certain restrictions on payment of compensation or monetary benefits upon expiration of a collective bargaining agreement; revising various provisions relating to negotiations between a school district and an employee organization representing teachers or educational support personnel; revising provisions relating to bargaining concessions for certain employee leave; repealing certain provisions governing school administrators; and providing other matters properly relating thereto.

S.B. 356 has much in common with Assembly Bill No. 271 (A.B. 271), which I vetoed on May 25th, 2017. I continue to support efforts to protect Nevada's hardworking public servants. But, as with A.B. 271, I cannot support S.B. 356, because it rolls back bipartisan, compromise legislation passed during the 2015 Legislative Session.

Essentially, S.B. 356 reverses Senate Bill 241 from 2015, which enacted reasonable collective bargaining reforms with overwhelming bipartisan support and broad stakeholder consensus. Two years later, there is no evidence to justify repealing these reforms.

And while the reforms of 2015 had near-unanimous support, S.B. 356, like A.B. 271 before it, passed on a strict, party-line vote. These partisan votes reflect the lack of agreement that accompanied the very reforms S.B. 356 now seeks to unwind.

For those reasons, I veto Senate Bill 356 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 356.

Motion carried.

Vetoed Senate Bill No. 374.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

May 30, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 374 (S.B. 374), which is entitled:

> AN ACT relating to cannabis; revising the medical conditions for which a person may obtain a registry identification card; prohibiting a professional licensing board from taking disciplinary action against a licensee who holds a registry identification card or engages in certain lawful activities relating to marijuana; authorizing the use of a marijuana infused product or product containing industrial hemp by a provider of health care or massage therapist on a patient or client; and providing other matters properly relating thereto.

S.B. 374 raises several questions regarding the use of medical and recreational marijuana. It limits the discretion of professional licensing boards over their members who use recreational marijuana. It also expands the list of providers of health care who can recommend medical marijuana for a patient and allows massage therapists to apply topical lotions, oils, and other products that contain hemp or marijuana to customers and patients.

Nevada law already prohibits an occupational licensing board from taking disciplinary action against licensees for their use of medical marijuana. However, given the uncertainty associated with the United States Justice Department's enforcement policies of federal law on the use of recreational marijuana, it is unwise to limit professional licensing board discretion over the use of recreational marijuana by a licensee. It is also imprudent to expand possible uses of recreational marijuana by allowing topical application of products containing marijuana and hemp by massage therapists and others. These are subjects that warrant further study and review to consider the efficacy, health effects and legality of these issues.

For these reasons, I veto S.B. 374 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 374.

Motion carried.

Vetoed Senate Bill No. 416.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

May 31, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 416 (S.B. 416), which is entitled:

> AN ACT relating to marijuana; authorizing a medical marijuana establishment, an association of medical marijuana establishments or a joint committee consisting of representatives of a labor organization and medical marijuana establishments to propose and enter into an agreement to carry out a program of apprenticeship for medical marijuana establishment agents; and providing other matters properly related thereto.

S.B. 416 is not without merit to the extent that the bill contemplates standardized training for workers in Nevada's medical marijuana dispensaries. Nevertheless, S.B. 416 raises broader workforce policy implications, particularly with regard to Nevada's workforce development investment system and the role that apprenticeship programs will play in training workers for 21st Century occupations. Moreover, it is unclear that S.B. 416's provisions are consistent with federal regulations governing approval of apprenticeship programs.

To date, California is the only state in the Country that has approved medical marijuana apprenticeship programs, and those programs have been operating for a relatively short period of time. Federal regulations, however, require that states "ensure that the registration of apprenticeship programs occurs only in occupations in high-growth and high-demand industries." (29 CFR §29.13(6)). The short history of marijuana-related training programs reflects the infancy of this industry and weighs against a determination that the industry is high-growth or high-demand, as required by federal regulations. There is simply an insufficient amount of information or data to justify certification of training programs for marijuana-related professions, particularly given the role of the federal government in overseeing state apprenticeship programs.

The U.S. Department of Labor ultimately has jurisdiction over certification and regulation of apprenticeship programs. While Nevada has chosen to establish a State Apprenticeship Agency which plays a role in approving state programs, this agency must be accredited by the federal government, and millions of dollars in federal funds are awarded to Nevada each year to support apprenticeship programs. Pursuant to federal regulations regarding apprenticeship programs, "All proposed modifications, in legislation, regulations, policies and/or operational procedures planned or anticipated by a State Apprenticeship Agency," must be submitted to the federal Office of Apprenticeship for review, and the federal Office of Apprenticeship must concur in any such proposal. (29 CFR§29.13(9)). Nothing has been presented to demonstrate that the federal Office of Apprenticeship has provided the concurrence required by federal regulations with regard to the changes proposed by S.B. 416.

Apprenticeship programs will play an invaluable role in training Nevada's workforce for a 21st Century economy. The significance of these programs is reflected in S.B. 516, which my administration introduced in an effort to enhance and expand apprenticeship Present Absent/Excused programs throughout Nevada. While innovation with regard to apprenticeship

programs is unquestionably important, S.B. 416 threatens to do more harm than good by authorizing the State to certify apprenticeship programs within an industry for which the federal government has not signaled clear approval.

For these reasons, I veto S.B. 416 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 416.

Motion carried.

Vetoed Senate Bill No. 434.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR
STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA

May 30, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,
Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 434 (S.B. 434), which is entitled:

> AN ACT relating to cities; requiring the City Attorneys of the cities of Reno and Sparks to be appointed rather than elected; and providing other matters properly relating thereto.

S.B. 434 makes a significant change to how the City Attorneys of Reno and Sparks are selected. Until now, the individual holding this position has been selected by the voters. This bill would eliminate voter selection of the City Attorney and replace it with appointment by the respective City Councils of Reno and Sparks.

Currently, the City Attorneys maintain allegiance and responsibility to their respective communities, and not a majority of their City councils. Such an arrangement preserves legal discretion and maintains a balance between attorney and client that should not be disturbed.

Finally, neither the City of Sparks nor the City of Reno asked for or supported this bill. In fact, the City of Sparks, through its Mayor and City council, have opposed it. Not only does this proposed legislative change circumvent the process usually used to amend the Reno and Sparks City Charters, but it also ignores the will of the voters, who in 1974 and 1991 overwhelmingly rejected similar attempts to make the Sparks City Attorney an appointed rather than an elected position.

For these reasons, I veto S.B. 434 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL
Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 434.

Motion carried.

Vetoed Senate Bill No. 469.

Bill read.

Governor's message stating his objections read.

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA

EXECUTIVE CHAMBER

CARSON CITY, NEVADA

June 1, 2017

THE HONORABLE ARRON D. FORD, *Nevada State Senate Majority Leader*,

Nevada Legislature, 401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill No. 469 (S.B. 469), which is entitled:

AN ACT relating to local governments; revising the percentage of the budgeted ending fund balance of certain local governments that is excluded from collective bargaining negotiations; and providing other matters properly relating thereto.

The Great Recession caused Nevada to experience one of its worst economic downturns in our State's history. Record unemployment, bankruptcies, and foreclosures devastated Nevada families, schools, and government services.

One of the many lessons learned from the Great Recession is insuring that local governments have adequate reserve funds to mitigate against inevitable economic downturns. Such savings reduce cuts to essential services, ease reductions to public employee salaries and benefits, and help avoid layoffs.

The State was no stranger to the negative impacts brought by the Great Recession. Furloughs, salary and benefit reductions, position eliminations, reductions in building and maintenance and K-12 education funding, and cuts in essential services and higher education were only some of the consequences of the economic downturn.

State and local governments should not spend all available funding while the Nevada economy improves and must anticipate inevitable economic downturns. For example, at the end of the next biennium, Nevada's savings account, the "rainy-day fund," will have approximately $206 million in it. In the past three budget cycles, this fiscal life preserver has been depleted to reductions in the State budget. Now, the proposed budget includes a meaningful balance for the next "rainy day."

Local governments should have similar financial flexibility when it comes to planning for the next rainy day. During the 2015 Legislative Session, the Legislature passed Senate Bill 168 on a bipartisan basis, with 41 Members of the Assembly voting yes, and no Members voting nay. This important reform increased a local government's ability to reserve funds. With that reform, local governments were allowed a budgeted ending fund balance of not more than 25 percent that would be set aside for economic downturns and not subjected to collective bargaining. S.B. 469 would undo that prudent, bipartisan compromise from 2015 without any evidence that such a rollback is necessary or appropriate.

For these reasons, I veto S.B. 469 and return it without my signature or approval.

Sincerely,

BRIAN SANDOVAL

Governor

The question was put: "Shall the bill pass, notwithstanding the objections of the Governor?"

Senator Ford moved no further consideration of vetoed Senate Bill No. 469.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 1091 to Senate Bill No. 418 and Amendment No. 1070 to Assembly Bill No. 362.

KELVIN ATKINSON, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Farley moved that Assembly Bill No. 29 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Ratti moved that Senate Joint Resolution No. 16 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 550 be taken from the General File and placed on the General File, last Agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 487.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 155.

Bill read third time.

Remarks by Senator Farley.

Senate Bill No. 155 provides General Fund appropriations of $1 million in each year of the 2017-19 biennium to the Department of Education to contract with the Clark County Public Education Foundation for the implementation and operation of educational-leadership training programs. The bill requires the Foundation to provide matching funds before receiving this appropriation. The Foundation is also required to work in cooperation with the 17 school districts, other public education foundations and other partners to design and implement educational-leadership training programs.

Senate Bill No. 155 requires the Foundation to utilize the General Fund appropriations for personnel, resources to facilitate instruction, research related to the design of curriculum, communication with education leaders and data systems for the reporting of participation and results. It also requires the Foundation to prepare and transmit a report to the Interim Finance Committee on or before September 21, 2018, that describes each expenditure made from the General Fund appropriation through June 30, 2018, and another report no later than September 20, 2019, for expenditures through June 30, 2019.

Roll call on Senate Bill No. 155:

YEAS—21.

NAYS—None.

Senate Bill No. 155 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 300, as amended, appropriates $1.2 million in each year of the 2017-19 biennium from the State General Fund to the Department of Education for transfers to Clark County School District and Washoe County School District for peer assistance and review of teachers programs. The bill requires the school districts that receive an allocation to provide assistance to teachers in meeting the standards for effective teaching, including without limitation, by conducting observations and peer assistance and review and providing information and resources to teachers about the strategies for effective teaching.

Roll call on Senate Bill No. 300:

YEAS—21.

NAYS—None.

Senate Bill No. 300 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 443.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 443 requires the Aging and Disability Services Division, to the extent money is available, to employ one or more interpreters in the unclassified service. Senate Bill No. 443 also requires the Division of Human Resource Management within the Department of Administration to examine and submit a list of the position's duties and responsibilities, along with a recommended salary, to the Interim Finance Committee to establish a salary for the position.

Roll call on Senate Bill No. 443:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 444.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 444 appropriates from the State General Fund to the Nevada Department of Veterans Services the amount of $124,981 in each fiscal year of the upcoming biennium to provide financial assistance and support for the Adopt a Vet Dental Program.

Roll call on Senate Bill No. 444:

YEAS—21.

NAYS—None.

Senate Bill No. 444 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 445.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 445 appropriates $98,356 from the State General Fund to the Eighth Judicial District Court for the salary of a Veterans Court Coordinator. Any remaining balance of this appropriation must not be committed for expenditure after June 30, 2019, and any remaining funds must revert to the State General Fund on or before September 20, 2019.

Roll call on Senate Bill No. 445:

YEAS—21.

NAYS—None.

Senate Bill No. 445 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 482.

Bill read third time.

Remarks by Senators Spearman and Kieckhefer.

SENATOR SPEARMAN:

Senate Bill No. 482 amends NRS chapter 449 to improve public and patient access to information on quality of care ratings assigned by the federal government for medical facilities and facilities for dependents in Nevada by requiring the State Division of Public and Behavioral Health on its website to post an Internet link to the most recent "Star" rating assigned by the federal Centers for Medicare and Medicaid Services (CMS) to each medical facility or facility for the dependent in Nevada that receives such a rating. Additionally, Senate Bill No. 482 requires each medical facility and facility for the dependent that receives a "Star" rating from CMS to post the most recent rating in a conspicuous place near each facility entrance used by the public and on the facility's public Internet website, if it maintains a website.

Further, this bill requires the Division to adopt regulations to establish a system for rating each health-care facility licensed for more than 70 beds that is located in a county with a population of 100,000 or more on the facility's compliance with the provisions of this section and NRS 449 as it pertains to staffing including revision to the required membership of the staffing committee and the written staffing plan of such hospitals. Once each inspection or investigation is final, the Division is to post certain information relating to a facility's rating and requires the facility to post the final rating after each inspection or investigation in a conspicuous place near each facility entrance used by the public and on the facility's public Internet website, if it maintains a website.

Regarding ambulatory surgery centers, this bill requires that the Division shall post on the Division's website, an Internet link to the Ambulatory Surgery Center Quality Reporting Program managed by CMS and adds the requirement that an ambulatory surgery center shall post a notice in a conspicuous place near each entrance to the facility that is used by the public and the Internet website of the CMS' Ambulatory Surgery Center Quality Reporting program.

This bill increases transparency in the medical-delivery field for Nevadans.

SENATOR KIECKHEFER:

I oppose Senate Bill No. 482 because with it we are creating conflicting levels of transparency. We would have two rating systems, done by different organizations evaluating different things for the same facility if this bill passes. This could lead to one evaluation showing a facility is doing well and another showing the facility is doing poorly because they are each evaluating different subject matter. That would lead to more confusion rather than creating clarity for consumers, and for that reason, I am opposed to this bill.

SENATOR SPEARMAN:

This is the rating system agreed to by the hospitals, recognizing that there were different inspections that occur. This system is consistent across all lines and is the one hospitals asked to be put into this bill.

Roll call on Senate Bill No. 482:

YEAS—13.

NAYS—Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—8.

Senate Bill No. 482 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 547.

Bill read third time.

Remarks by Ford, Hardy, Harris, Kieckhefer.

SENATOR FORD:

Senate Bill No. 547 requires each large school district which has 100,000 pupils enrolled in its public schools, currently on the Clark County School District, to establish through negotiations with an employee organization a salary-incentive program for professional growth which is to be made available to any licensed teacher or principal who enters into the voluntary agreement with the school district when receiving his or her annual evaluation.

According to the bill, any such agreement must provide that the teacher or principal agrees to complete continuing education or professional development or other actions intended to improve the performance of the teacher or principal at his or her own expense; and the school district agrees to provide a salary increase to the teacher or principal after two years if the teacher or principal is employed at a Title I school and further agrees to remain at the Title I school for one additional school year or after three years if the teacher or principal is employed at a non-Title I school.

Senate Bill No. 547 requires the board of trustees of a large school district to reserve for each fiscal year an amount of money sufficient to carry out any increase in the salary of a licensed teacher or principal upon successful completion of the requirements set for in the voluntary agreement with the school district. The amount of money reserved by the school district for this purpose must not reduce the operating expenditures considered when determining the budget of the large school district.

Section 5.5 of the bill applies the provisions of this act to any existing contract on July 1, 2017, to the extent the provisions of the act do not conflict with the terms of such contract. To the extent that a conflict exists, the provisions of the existing contract control. Finally, the bill does not require a large school district to begin reserving money for the salary-incentive program for professional growth until July 1, 2018.

When a school board or district agrees to give professional incentives, that district should be bound to adhere to that agreement. If that means a teacher has completed his or her professional growth plan in expectation for a salary increase or bonus, upon completion, he or she should receive that bonus or increase. This bill helps to facilitate that; indeed, it requires it. I urge your support.

SENATOR HARDY:

I rise in support of Senate Bill No. 547. Usually, we give school districts a barrel of money. This gives them a bucket, which means we have control over it while still having the opportunity to help teachers in their continuing education, improving their teaching and increasing their ability to help students.

SENATOR HARRIS:

We have a challenge retaining teachers in the State of Nevada, especially in Clark County, and this bill is a way to help teachers understand how grateful we are for the precious work they do with our children day in and day out. If we are serious about addressing the teacher shortage and wanting to improve our schools, we need to support this bill. For that reason, I am supporting it today.

SENATOR KIECKHEFER:

While I agree with my colleagues that payments should be made for what was bargained for, this is already allowed within the collective-bargaining structure. It is not appropriate to be adding new subjects to mandatory collective-bargaining. For that reason, I will be opposing this bill.

Roll call on Senate Bill No. 547:

YEAS—20.

NAYS—Kieckhefer.

Senate Bill No. 547 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 548.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 548 authorizes a college or university within the Nevada System of Higher Education to apply to the State Board of Education for a grant of money to establish the Nevada Institute on Teaching and Educator Preparation. The Institute will establish a highly selective program for the education and training of teachers; conduct research concerning approaches and methods used to educate and train teachers and to teach pupils; and evaluate, develop and disseminate approaches to teaching. Senate Bill No. 548 appropriates $500,000 in General Fund appropriations in each fiscal year of the 2017-19 biennium to the State Board of Education for the purpose of awarding a grant of money to a college or university within the Nevada System of Higher Education.

Roll call on Senate Bill No. 548:

YEAS—21.

NAYS—None.

Senate Bill No. 548 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 549.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 549 appropriates from the State General Fund to the Division of State Library, Archives and Public Records of the Department of Administration the sum of $500,000 for library-collection development, bookmobile services, Statewide databases and emerging technology.

Roll call on Senate Bill No. 549:

YEAS—21.

NAYS—None.

Senate Bill No. 549 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 551.

Bill read third time.

Remarks by Senator Parks.

Senate Bill No. 551 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 2018 and FY 2019, the monthly State contribution for active employee group insurance is $743.00 and $740.92, respectively.

Senate Bill No. 551 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 2018 and FY 2019, the monthly State contribution for retired-employee group insurance is $445.03 and $451.23, respectively. For Medicare-eligible state retirees, Senate Bill No. 551 establishes a monthly State contribution of $180.00 per in each year of the 2017-19 biennium 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 $240.00 per month in the 2017-19 biennium.

The bill allows for an exception to the requirement that the Fiscal Analysis Division obtain and prepare fiscal notes from State agencies and local governments prior to a Committee taking a vote on Senate Bill No. 551. This provision applies retroactively to June 1, 2017.

Roll call on Senate Bill No. 551:

YEAS—21.

NAYS—None.

Senate Bill No. 551 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 552.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 552 aligns the monthly premium paid by a non-State, non-Medicare retiree who participates in the Public Employees' Benefits Program (PEBP) with a similarly participating, same plan and tier, State non-Medicare retiree, effective July 1, 2017, which would lower premiums for non-State, non-Medicare retirees and require local governments to contribute additional funding in support of their retirees. The bill authorizes a one-time exception to the requirement that a 30-day written notice be provided to local governments and PEBP participants for a proposed change in rates or premiums and specifies that PEBP is not required to hold an open enrollment period for the plan year beginning July 1, 2017.

To allow local governments time to allocate additional funding for retiree health-care costs, increased local-government contributions will be phased in over a four-year period, with the State providing General Fund appropriations to cover a portion of the increased local-government contribution as follows: 100 percent in FY 2018, 75 percent in FY 2019, 50 percent in FY 2020, and 25 percent in FY 2021, with local governments providing 100 percent of the increased contribution in FY 2022 and beyond.

The bill allows for an exception to the requirement that the Fiscal Analysis Division obtain and prepare fiscal notes from State agencies and local governments prior to a Committee taking a vote on Senate Bill No. 552. This provision of the bill applies retroactively to June 1, 2017. Furthermore, the bill specifies that the provisions of NRS 354.599 do not apply to any additional expenses of a local government related to this act.

This bill will solve the "orphan issue" we have discussed for many legislative Sessions, and I urge your support to help take care of these people.

Roll call on Senate Bill No. 552:
YEAS—21.
NAYS—None.

Senate Bill No. 552 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 553.
Bill read third time.
Remarks by Senator Woodhouse.
Senate Bill No. 553 authorizes funding of $3.5 million for planning efforts for a new 50,000 square foot College of Engineering, Academic and Research Building at the University of Nevada, Las Vegas. The funding consists of an equal split of $1.75 million of General Fund appropriations and $1.75 million in University funds in the form of donor funds.

Roll call on Senate Bill No. 553:
YEAS—21.
NAYS—None.

Senate Bill No. 553 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 23.
Bill read third time.
Remarks by Senator Segerblom.
Assembly Bill No. 23 authorizes the Division of Parole and Probation of the Department of Public Safety to establish and operate one or more independent reporting facilities for the purpose of providing certain daily services to any parolee or probationer who is ordered to attend as an intermediate sanction. The Chief of the Division is authorized to contract for any services necessary to operate the independent reporting facilities.
This provides a place for people who are on probation to have a place to go during the day to get special attention and avoid being sent back to jail. This will save money and keep people from going back to prison.

Roll call on Assembly Bill No. 23:
YEAS—21.
NAYS—None.

Assembly Bill No. 23 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 122.
Bill read third time.
Senator Segerblom moved that the bill be taken from the General File and placed on the General File, third Agenda.
Motion carried.

Assembly Bill No. 144.

Bill read third time.

Remarks by Senator Segerblom.

Assembly Bill No. 144 creates the Nevada Advisory Commission on Mentoring to support and facilitate existing mentorship programs in the State and requires the Commission to appoint committees from its members; engage the services of volunteers and consultants without compensation; enter into public-private partnerships; apply for and receive gifts, grants, contributions and other support funding; establish model guidelines and parameters for existing mentorship programs; develop a financial plan model that provides for the sustainability and financial stability of mentorship programs; develop model protocols for the recruitment, support and effective management of mentors, mentees and matches under mentorship programs; and within the limits of legislative appropriations, employ a coordinator for mentorship programs and develop and administer a competitive grant program to award funding to mentorship programs.

The bill also requires the Commission to appoint a Mentorship Advisory Council and submit an annual report outlining its activities and recommendations to the Governor and the Legislature. Lastly, the bill appropriates $7,400 in each year of the 2017-2019 Biennium from the State General Fund to the Department of Education for the cost of Commission meetings.

Roll call on Assembly Bill No. 144:

YEAS—21.

NAYS—None.

Assembly Bill No. 144 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 175.

Bill read third time.

Remarks by Senators Cancela and Settelmeyer.

SENATOR CANCELA:

Assembly Bill No. 175 establishes the minimum level of health benefits an employer must make available to an employee in order to pay the minimum wage that is lower than the minimum wage otherwise required to be paid to the employee.

SENATOR SETTELMEYER:

I rise in opposition to Assembly Bill No. 175. There is a discussion of these benefit plans, and it seems these require 100 percent dental and vision coverage which are not currently offered in the State of Nevada. The requirement that the employer pay 60 percent of said plans seems problematic, and I will be voting "no" on this bill.

Roll call on Assembly Bill No. 175:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—9.

Assembly Bill No. 175 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 290.

Bill read third time.

Remarks by Senators Parks and Roberson.

SENATOR PARKS:

Assembly Bill No. 290 provides the cost of leave time that was granted by a local government employer to certain employees for the purpose of providing services for an employee organization as of June 1, 2015, is deemed to have been fully offset by bargaining concessions made by the employee organization.

SENATOR ROBERSON:

Assembly Bill No. 290 is a complete evisceration of the paid union leave time provision from Senate Bill 241 of the 2015 Session. It is the most aggressive roll-back of a bipartisan reform passed last Session that I have seen this Session. I am opposed to this bill.

Roll call on Assembly Bill No. 290:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—9.

Assembly Bill No. 290 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 291.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 291 revises provisions governing investigation reports. The Division of Parole and Probation is required to include certain information as it relates to the defendants offense in the presentence investigation report. Further, the Division is required to include any score sheets or scales used to determine a recommendation. Lastly, the measure allows the court to order the Division to correct the contents of any general investigation or presentence investigation report within 180 days after the date on which the judgment of conviction was entered.

Roll call on Assembly Bill No. 291:

YEAS—21.

NAYS—None.

Assembly Bill No. 291 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 328.

Bill read third time.

Remarks by Senators Spearman and Hardy.

SENATOR SPEARMAN:

Assembly Bill No. 328 revises various provisions governing professional and occupational licensing boards. The bill prohibits an attorney from being employed as legal counsel by more than one board and prohibits a person from being employed as an executive director or executive secretary by more than one board. It also requires an attorney who contracts with a board to carry a policy of professional liability insurance. Additionally, Assembly Bill No. 328 prohibits an attorney who is employed as legal counsel to a board from prosecuting a contested case at any time while employed or retained by the board.

The measure also requires the Department of Administration to establish standards for the financial operation and administration of the boards and raises from $75,000 to $200,000 the threshold amount of revenue a board obtains annually before it must obtain an audit under

certain circumstances. Finally, Assembly Bill No. 328 removes an exemption for certain boards from having to comply with a uniform disciplinary process for licensees.

SENATOR HARDY:

I rise in support of Assembly Bill No. 328. We had an interesting presentation in the Committee where the model of the boards was the board for contractors, and they were originally opposed as they were already the primary example for doing what is right. I appreciate the patience and the cooperation of the Assembly Members who sponsored this bill to get them to continue to be a model without having to be part of something they did not need to be a part of.

Roll call on Assembly Bill No. 328:

YEAS—21.

NAYS—None.

Assembly Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 1070.

SUMMARY—Revises provisions relating to educational personnel. (BDR 34-1144)

AN ACT relating to education; prohibiting certain persons from assisting certain employees, contractors or agents who work at a public school to obtain new employment; prohibiting a local educational agency or public school from entering into certain agreements; requiring an applicant for employment who may have direct contact with pupils to provide certain information and written authorizations; requiring the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils , governing body of a private school and certain independent contractors to take certain action regarding persons who may have direct contact with children; requiring certain employers to provide certain information regarding an applicant for employment who may have direct contact with children; providing that an employer who fails to provide certain information regarding an applicant for employment who may have direct contact with children is subject to certain disciplinary action; providing that a teacher or administrator may be subject to disciplinary action for certain violations; requiring the Superintendent of Public Instruction to provide certain notice when an application for a license is denied; requiring the Department of Education to maintain a list of the names of persons whose application for a license has been denied for certain purposes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6, 7 and 22 of this bill incorporate in state law certain provisions of federal law designed to prevent persons who have engaged in sexual

misconduct with a minor from obtaining new employment.

Section 8 of this bill requires an applicant for employment with a school district, charter school, university school for profoundly gifted pupils and certain independent contractors who may have direct contact with pupils to provide to the prospective employer: (1) information relating to his or her employment history; and (2) written authorization for a current or previous employer to release information relating to his or her employment. Section 8 also provides that any action brought by such an applicant for employment based upon information obtained about the applicant to determine his or her fitness for employment must be brought in a court in this State and governed by the laws of this State. Finally, section 8 provides that an applicant for employment who knowingly provides false information or willfully fails to disclose information is subject to discipline and is guilty of a misdemeanor. Section 25 of this bill places the same requirements and penalties on an applicant for employment with a private school.

Section 9 of this bill requires the governing body of a public school, including the board of trustees of a school district, governing body of a charter school and governing body of a university school for profoundly gifted pupils, or an independent contractor who receives the information described in section 8 to: (1) verify the information received; (2) ensure that the applicant has a license authorizing him or her to teach or perform other educational functions if a license is required; and (3) verify that the Department of Education has not received notice that the applicant is a defendant in a criminal case. Section 26 of this bill similarly requires the governing body of a private school that receives the information described in section 25 to verify the information received.

~~[Section]~~ Sections 10 and 27 of this bill ~~[requires]~~ require the governing body of a public school , ~~[and]~~ an independent contractor and the governing body of a private school, respectively, to take certain action to obtain additional information if a current or previous employer of an applicant indicates that the applicant is or was the subject of an investigation concerning an alleged sexual offense.

Sections 9 , ~~[and]~~ 10 , 26 and 27 of this bill also provide that any ~~[person]~~ employer or former employer who is contacted by the governing body of a public school , ~~[or]~~ an independent contractor or the governing body of a private school, respectively, and asked to provide information, but willfully fails to disclose information is subject to discipline, including a civil penalty. Sections 9 , ~~[and]~~ 10 , 26 and 27 further provide that, in addition to being subject to discipline, including a civil penalty, a private school that willfully fails to disclose any such information is subject to discipline, which may include being placed on a corrective action plan. Sections 9 , ~~[and]~~ 10 , 26 and 27 provide immunity from liability for providing the information and makes the information privileged.

~~[Section]~~ Sections 11 and 28 of this bill ~~[authorizes]~~ authorize the governing body of a public school , ~~[and]~~ an independent contractor and the

governing body of a private school, respectively to: (1) consider the information received pursuant to sections 8-10 and 25-27 when making an employment decision; and (2) report the information received to certain entities. ~~[Section]~~ Sections 11 and 28 of this bill also ~~[provides]~~ provide that the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils , ~~[or]~~ independent contractor ~~[,]~~ or governing body of a private school: (1) shall not be held liable for any damages resulting from failure of an entity not subject to the jurisdiction of this State to respond to certain requests for information or any inaccuracy or omission in the information submitted; and (2) is immune from civil or criminal liability for considering the information received pursuant to sections 8-10 or 25-27, as applicable, when making employment decisions.

Section 12 of this bill requires an independent contractor who employs a person who may have direct contact with pupils to maintain a record for each such employee and, upon request, provide this record to the governing body of the public school at which an employee has been assigned to perform work. Section 12 also: (1) requires an independent contractor to provide certain information to the governing body of a public school before assigning an employee to perform work at a location; and (2) prohibits an independent contractor from assigning an employee to perform work at a school if the governing body of the school objects to the assignment.

~~[Section]~~ Sections 13 and 29 of this bill ~~[authorizes]~~ authorize the governing body of a public school and the governing body of a private school, respectively, to allow provisional employment of a person pending review of the information received pursuant to sections 8-10 or 25-27, as applicable, in certain circumstances.

Section 14 of this bill provides that nothing in sections 2-17 of this bill shall be construed to: (1) prevent a prospective employer from conducting further investigations of a prospective employee; (2) prohibit a person from disclosing more information than is required by this bill; or (3) relieve a person of a duty to report prescribed by state or federal law. Section 30 of this bill similarly provides that nothing in sections 22-32 of this bill shall be construed to: (1) prevent a private school from conducting further investigations of a prospective employee; (2) prohibit a person from disclosing more information than is required by this bill; or (3) relieve a person of a duty to report prescribed by state or federal law.

~~[Section]~~ Sections 15 ~~[prohibits]~~ and 31 of this bill prohibit the governing body of a public school , ~~[or]~~ an independent contractor or the governing body of a private school, respectively, from entering into any agreement that: (1) has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee; (2) affects the ability of the governing body or independent contractor to report suspected abuse or sexual misconduct; or (3) requires the governing body or independent contractor to expunge certain information

from any documents maintained by the governing body or independent contractor. ~~[Section]~~ Sections 15 and 31 also ~~[requires]~~ require an employer to maintain certain documents if the agreement requires the removal of the document from an employee's personnel file.

Sections 16 and 21 provide that any information collected from an applicant for employment or an employer pursuant to sections 8-10 is confidential and is not a public book or record.

~~[Section]~~ Sections 17 ~~[provides]~~ and 32 of this bill provide that any person who willfully violates any provision of sections 2-17 or 22-32, respectively, is subject to a civil penalty, which must be recovered in a civil action. Section 17 also prohibits the governing body of a public school from contracting with an independent contractor who has been found to have willfully violated the provisions of sections 2-17. Section 19 provides that a teacher or administrator may be subject to disciplinary action for willfully violating the provisions of sections 2-17.

Existing law requires the Superintendent of Public Instruction to grant all licenses for teachers and other educational personnel. (NRS 391.033) Section 18 requires the Superintendent to provide notice to a school district or charter school that employs an applicant whenever an application for a license is denied. Section 18 also requires the Department of Education to: (1) maintain a list of the names of persons whose application for a license is denied due to conviction of a sexual offense involving a minor; and (2) provide such a list to certain persons upon request.

Existing law requires each private school desiring to operate in this State to apply to the Superintendent of Public Instruction to obtain a license to operate a private school. (NRS 394.451) Section 33 of this bill requires such an application to be accompanied by documentation of the actions the applicant has taken to comply with the requirements prescribed in sections 25, 26 and 27. Section 33 requires the State Board to deny a license to operate a private school or fail to renew such a license for an applicant who does not provide such documentation.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(30)(A).*

Sec. 4. *"Sexual misconduct" means any act, including, without limitation, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child, regardless of the age of the child, that is designed to establish a romantic or sexual relationship with the child.*

Sec. 5. *"Sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 6. *1. Except as otherwise provided in subsection 2, the Department, a local educational agency or an employee, contractor or agent thereof who works at a public school shall not assist an employee, contractor or agent who works at a school to obtain new employment, apart from the routine transmission of administrative and personnel files, if the person or entity has actual or constructive knowledge that such an employee, contractor or agent has engaged in sexual misconduct regarding a minor or pupil.*

2. The provisions of subsection 1 do not apply if:

(a) The information giving rise to actual or constructive knowledge has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct and any other authorities required by federal, state or local law, including, without limitation, Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., and any regulations adopted pursuant thereto, and the matter has been officially closed, or the District Attorney or law enforcement agency with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish that the employee, contractor or agent engaged in sexual misconduct regarding a minor or pupil;

(b) The employee, contractor or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

(c) The case or investigation remains open and there have been no charges filed against, or indictment of, the employee, contractor or agent within 4 years after the date on which the information was reported to a law enforcement agency.

3. The State Board may adopt regulations to enforce the provisions of this section.

Sec. 7. *A local educational agency or a public school shall not enter into any agreement with a person convicted of a sexual offense involving a minor to keep the conviction or the circumstances surrounding the offense confidential.*

Sec. 8. *1. In addition to fulfilling the requirements for employment prescribed by NRS 388A.323, 388A.515, 388C.200, 391.104 or 391.281, as applicable, or fulfilling the requirements for the issuance of a license prescribed by NRS 391.033, any applicant for employment with a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, as a condition to employment, submit to the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment, on a form prescribed by the Department:*

(a) The name, address and telephone number for the applicant's current employer, any former employer of the applicant that was a school or school district and any other former employer with whom the applicant was employed in a position that involved direct contact with children;

(b) Any other contact information for ~~[the persons]~~ an employer or former employer described in paragraph (a) prescribed by the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment;

(c) Written authorization for ~~[the persons]~~ an employer or former employer described in paragraph (a) to release the information prescribed in section 9 of this act; and

(d) A written statement indicating whether the ~~[person]~~ applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency. ~~[A person]~~ The applicant is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer or agency determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. Any action brought by an applicant for employment described in subsection 1 against a board of trustees, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils, or an employee thereof, which is based upon information obtained by ~~[a]~~ the board of trustees ~~[of a school district, the]~~ or the governing body ~~[of a charter school or the governing body of a university school for profoundly gifted pupils]~~ with which the applicant seeks employment to determine the fitness of the applicant for employment, including, without limitation, an action for defamation, must be brought in a court in the State of Nevada and governed by the laws of this State. The provisions of this subsection shall not be deemed to waive any immunity from liability to which the board of trustees or governing body, as applicable, or employee thereof, is entitled.

3. An applicant for employment with an independent contractor of a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, before having direct contact with pupils, submit to the independent contractor on a form prescribed by the Department:

(a) The information described in paragraphs (a), (c) and (d) of subsection 1; and

(b) Any other contact information for the ~~[persons]~~ employers and former employers described in paragraph (a) of subsection 1 requested by the independent contractor with which the applicant seeks to obtain employment.

4. Any applicant for employment described in subsection 1 or 3 who knowingly provides false information or willfully fails to disclose any information required by this section:

(a) Is subject to discipline, including, without limitation, suspension or revocation of the person's license pursuant to NRS 391.330 or 391.750, termination of employment or a civil penalty pursuant to section 17 of this act; and

(b) Is guilty of a misdemeanor.

Sec. 9. *1. Upon receipt of the information required by section 8 of this act, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor shall:*

(a) Contact each ~~[person]~~ employer and former employer described in paragraph (a) of subsection 1 of section 8 of this act and request that the ~~[person]~~ employer provide:

(1) The dates of employment of the applicant; and

(2) On a form prescribed by the Department, a written statement indicating whether the applicant has:

(I) Except as otherwise provided in this sub-subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by the employer. ~~[A person]~~ An employer or former employer is not required to provide the information described in this sub-subparagraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(II) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(III) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(b) Ensure that the applicant 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 applying for employment, if a license is required, and that the applicant is otherwise eligible for employment.

(c) Verify that the Department has not received notice, including, without limitation, notice provided pursuant to NRS 391.055, that the applicant is a defendant in a criminal case.

2. ~~[A person]~~ An employer or former employer contacted by a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor pursuant to paragraph (a) of subsection 1:

(a) Shall provide the information requested not later than 20 days after the date on which the board of trustees, governing body or independent contractor contacts the ~~[person.]~~ employer or former employer.

(b) Is immune from civil and criminal liability for any act relating to the provision of such information, unless the ~~[person]~~ employer or former employer knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

3. Except as otherwise prohibited by federal or state law, ~~[a person who]~~ an employer or former employer that willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 10. *1. If a statement provided pursuant to paragraph (d) of subsection 1 of section 8 of this act or subparagraph (2) of paragraph (a) of subsection 2 of section 9 of this act indicates that the ~~[person]~~ applicant meets any of the criteria prescribed in ~~[those paragraphs,]~~ that paragraph or subparagraph, as applicable, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor who receives the statement shall request ~~[that]~~ the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed the employee or asked the employee to resign from employment to provide additional information concerning the matter and all records related to the matter, including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.*

2. ~~[A person]~~ An employer contacted by the board of trustees of a school district, governing body of a charter school, governing body of a university

school for profoundly gifted pupils or independent contractor pursuant to subsection 1:

(a) Except as otherwise provided in this subsection, shall provide the information requested not later than 60 days after the date on which the board of trustees, governing body or independent contractor contacts the ~~[person.]~~ employer.

(b) Is not required to disclose any information or records held by the school police of the school district, if the school district has school police officers.

(c) Is immune from civil and criminal liability to the same extent provided in paragraph (b) of subsection 2 of section 9 of this act.

3. Except as otherwise prohibited by federal or state law, ~~[a person]~~ an employer who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 11. *The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor:*

1. May consider the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person.

2. May report the information submitted pursuant to sections 8, 9 and 10 of this act to the Department or a licensing agency, law enforcement agency, agency which provides child welfare services, an agency which provides child protective services or a similar agency.

3. Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for information pursuant to section 9 or 10 of this act or any inaccuracy or omission in the information submitted to the school district, charter school, university school for profoundly gifted pupils or independent contractor pursuant to section 9 or 10 of this act.

4. Is immune from civil or criminal liability for considering the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person.

Sec. 12. *1. An independent contractor of a school district, charter school or university school for profoundly gifted pupils who employs a person who may have direct contact with pupils shall:*

(a) Maintain a record for each such employee that includes, without limitation, the information submitted pursuant to subsection 2 of section 8 of this act and the information submitted pursuant to subsection 2 of section 9 of this act; and

(b) Upon request, provide the record maintained pursuant to paragraph (a) to the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, for the school at which an employee has been assigned to perform work.

2. Before assigning an employee to perform work at a location where the employee may have direct contact with pupils, an independent contractor shall inform the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, with which the employee will be assigned to perform work of any instance known in which the employee:

(a) Except as otherwise provided in this paragraph, has been the subject of an investigation concerning an alleged sexual offense conducted by an employer. A person is not required to provide the information described in this paragraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(b) Has ever been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(c) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

3. An independent contractor may not assign an employee to perform work at a public school, charter school or university school for profoundly gifted pupils if the board of trustees of the school district in which the school is located, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, objects to such an assignment upon receiving the notification required by subsection 2.

Sec. 13. *The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to sections 8, 9 and 10 of this act if the board of trustees or the governing body determines the applicant is otherwise qualified and:*

1. The applicant provided the statement described in paragraph (d) of subsection 1 of section 8 of this act.

2. The board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly

gifted pupils, as applicable, has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment.

3. The applicant swears or affirms that he or she is not disqualified from employment.

4. The applicant is directly supervised by a permanent employee in any duties that involve direct contact with pupils. The supervision must be such that the applicant is in the immediate location of the permanent employee and is readily available during such times as supervision is required.

Sec. 14. *Nothing in sections 2 to 17, inclusive, of this act shall be construed to:*

1. Prevent a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor from:

(a) Conducting further investigations of a prospective employee; or

(b) Requiring an applicant to submit additional information or authorizations beyond what is required by sections 8, 9 and 10 of this act.

2. Prohibit a person or governmental entity from disclosing more information than is required by sections 8, 9 and 10 of this act.

3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any other provision of state or federal law.

Sec. 15. *1. The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or the independent contractor of a school district, charter school or university school for profoundly gifted pupils shall not enter into an agreement that:*

(a) Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.

(b) Affects the ability of the school district, charter school, university school for profoundly gifted pupils or independent contractor to report suspected abuse or sexual misconduct to the appropriate authorities.

(c) Requires the school district, charter school, university school for profoundly gifted pupils or independent contractor to expunge information about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the school district, charter school, university school for profoundly gifted pupils or independent contractor, unless, after investigating the alleged violation, the school district, charter school, university school for profoundly gifted pupils or independent contractor determines that the allegations were false, unfounded, unsubstantiated or inconclusive.

2. If an agreement requires the removal of a document from the personnel file of an employee, the employer must maintain the document with the agreement.

3. Any provisions in an agreement that violate the provisions of this section are void.

Sec. 16. *Any information collected pursuant to section 8, 9 or 10 of this act is confidential and is not a public book or record within the meaning of NRS 239.010.*

Sec. 17. *1. Any person who willfully violates any provision of sections 2 to 17, inclusive, of this act, is subject to a civil penalty of not more than $10,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs. If a civil penalty is imposed against an independent contractor for willfully violating any provision of sections 2 to 17, inclusive, of this act, the Attorney General shall, within 30 days after the imposition of the civil penalty, notify the Department of the name of the independent contractor.*

2. The Department shall maintain a list of any independent contractors who have been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act and make the list available, upon request, to the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils.

3. The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils shall not contract with an independent contractor who has been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act.

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 7 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

(c) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.

6. If the Superintendent denies an application for a license pursuant to this section, the Superintendent must, within 15 days after the date on which the application is denied, provide notice of the denial to the school district or charter school that employs the applicant if the applicant is employed by a school district or charter school. Such a notice must not state the reasons for denial.

7. The Department shall:

(a) Maintain a list of the names of persons whose ~~[application]~~ applications for a license ~~[is]~~ are denied due to conviction of a sexual offense involving a minor;

(b) Update the list maintained pursuant to paragraph (a) monthly; and

(c) Provide this list to the board of trustees of a school district or the governing body of a charter school upon request.

8. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 19. NRS 391.750 is hereby amended to read as follows:

391.750 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

(b) Immorality;

(c) Unprofessional conduct;

(d) Insubordination;

(e) Neglect of duty;

(f) Physical or mental incapacity;

(g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;

(h) Conviction of a felony or of a crime involving moral turpitude;

(i) Inadequate performance;

(j) Evident unfitness for service;

(k) Failure to comply with such reasonable requirements as a board may prescribe;

(l) Failure to show normal improvement and evidence of professional training and growth;

(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the

advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;

(n) Any cause which constitutes grounds for the revocation of a teacher's license;

(o) Willful neglect or failure to observe and carry out the requirements of this title;

(p) Dishonesty;

(q) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 390.270 or 390.275;

(r) An intentional violation of NRS 388.497 or 388.499;

(s) Knowingly and willfully failing to comply with the provisions of NRS 388.1351;

(t) *Knowingly and willfully violating any provision of sections 2 to 17, inclusive, of this act;*

(u) Gross misconduct; or

~~[(u)]~~ *(v)* An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. If a teacher or administrator is found, through an investigation of a testing irregularity, to have willfully breached the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 390.105 or 390.600 or the college and career readiness assessment administered pursuant to NRS 390.610, the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils, as applicable, shall:

(a) Suspend, dismiss or fail to reemploy the teacher; or

(b) Demote, suspend, dismiss or fail to reemploy the administrator.

3. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

4. As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

Sec. 20. NRS 391.755 is hereby amended to read as follows:

391.755 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.750, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the

employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.760, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.820.

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.650 to 391.830, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h), (p), (s) , ~~[and]~~ (t) *and (u)* of subsection 1 of NRS 391.750.

Sec. 21. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 to 32, inclusive, of this act.

Sec. 22. *As used in sections 22 to 32, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 23 and 24 of this act have the meanings ascribed to them in those sections.*

Sec. 23. *"Sexual misconduct" has the meaning ascribed to it in section 4 of this act.*

Sec. 24. *"Sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 25. *1. Any applicant for employment with a private school who may have direct contact with pupils must, as a condition to employment, submit to the governing body of the private school with which the applicant seeks to obtain employment, on a form prescribed by the Department:*

(a) The name, address and telephone number for the applicant's current employer, any former employer of the applicant that was a school or school district and any other former employer with whom the applicant was employed in a position that involved direct contact with children;

(b) Any other contact information for the employer or former employer described in paragraph (a) prescribed by the governing body of the school with which the applicant seeks to obtain employment;

(c) Written authorization for the employer or former employer described in paragraph (a) to release the information prescribed in section 26 of this act; and

(d) A written statement indicating whether the applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency. An applicant is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer or agency determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. Any action brought by an applicant for employment described in subsection 1 against the governing body of a private school or an employee thereof which is based upon information obtained by the governing body of the private school with which the applicant seeks employment to determine the fitness of the applicant for employment, including, without limitation, an action for defamation, must be brought in a court in the State of Nevada and governed by the laws of this State.

3. Any applicant for employment described in subsection 1 who knowingly provides false information or willfully fails to disclose any information required by this section:

(a) Is subject to discipline, including, without limitation, termination of employment or a civil penalty pursuant to section 32 of this act; and

(b) Is guilty of a misdemeanor.

Sec. 26. 1. Upon receipt of the information required by section 25 of this act, the governing body of a private school shall contact each employer and former employer described in paragraph (a) of subsection 1 of section 25 of this act and request that the employer provide:

(a) The dates of employment of the applicant; and

(b) On a form prescribed by the Department, a written statement indicating whether the applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by the employer. An employer or former employer is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. An employer or former employer contacted by a governing body of a private school pursuant to subsection 1:

(a) Shall provide the information requested not later than 20 days after the date on which the governing body contacts the employer or former employer.

(b) Is immune from civil and criminal liability for any act relating to the provision of such information, unless the employer or former employer knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

3. Except as otherwise prohibited by federal or state law, an employer or former employer that willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 32 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 27. 1. If a statement provided pursuant to paragraph (d) of subsection 1 of section 25 of this act or paragraph (b) of subsection 1 of section 26 of this act indicates that the applicant meets any of the criteria prescribed in those paragraphs, the governing body of the private school that receives the statement shall request the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed the employee or asked the employee to resign from employment to provide additional information concerning the matter and all records related to the matter, including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.

2. An employer contacted by the governing body of a private school pursuant to subsection 1:

(a) Except as otherwise provided in this subsection, shall provide the information requested not later than 60 days after the date on which the governing body contacts the employer.

(b) Is immune from civil and criminal liability to the same extent provided in paragraph (b) of subsection 2 of section 26 of this act.

3. Except as otherwise prohibited by federal or state law, an employer who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 32 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 28. The governing body of a private school:

1. May consider the information submitted pursuant to sections 25, 26 and 27 of this act when deciding whether to employ an applicant or continue to employ a person.

2. May report the information submitted pursuant to sections 25, 26 and 27 of this act to the Department or a licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency.

3. Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for information pursuant to section 26 or 27 of this act or any inaccuracy or omission in the information submitted to the private school pursuant to section 26 or 27 of this act.

4. Is immune from civil or criminal liability for considering the information submitted pursuant to sections 25, 26 and 27 of this act when deciding whether to employ an applicant or continue to employ a person.

Sec. 29. The governing body of a private school may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to sections 25, 26 and 27 of this act if the governing body determines the applicant is otherwise qualified and:

1. The applicant provided the statement described in paragraph (d) of subsection 1 of section 25 of this act.

2. The governing body of the private school has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment.

3. The applicant swears or affirms that he or she is not disqualified from employment.

4. The applicant is directly supervised by a permanent employee in any duties that involve direct contact with pupils. The supervision must be such that the applicant is in the immediate location of the permanent employee and is readily available during such times as supervision is required.

Sec. 30. *Nothing in sections 22 to 32, inclusive, of this act shall be construed to:*

1. Prevent a governing body of a private school from:

(a) Conducting further investigations of a prospective employee; or

(b) Requiring an applicant to submit additional information or authorizations beyond what is required by sections 25, 26 and 27 of this act.

2. Prohibit a person or governmental entity from disclosing more information than is required by sections 25, 26 and 27 of this act.

3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any other provision of state or federal law.

Sec. 31. *1. The governing body of a private school shall not enter into an agreement that:*

(a) Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.

(b) Affects the ability of the private school to report suspected abuse or sexual misconduct to the appropriate authorities.

(c) Requires the private school to expunge information about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the private school unless, after investigating the alleged violation, the private school determines that the allegations were false, unfounded, unsubstantiated or inconclusive.

2. If an agreement requires the removal of a document from the personnel file of an employee, the private school must maintain the document with the agreement.

3. Any provisions in an agreement that violate the provisions of this section are void.

Sec. 32. *Any person who willfully violates any provision of sections 22 to 32, inclusive, of this act is subject to a civil penalty of not more than $10,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.*

Sec. 33. NRS 394.251 is hereby amended to read as follows:

394.251 1. Each elementary or secondary educational institution desiring to operate in this State must apply to the Superintendent upon forms provided by the Department. The application must be accompanied by the catalog or brochure published or proposed to be published by the institution. The application must also be accompanied by ~~[evidence]~~ *:*

(a) Evidence of the required surety bond or certificate of deposit and payment of the fees required by law ~~[.]~~ *; and*

(b) Documentation of the actions the institution has taken to comply with the requirements prescribed in sections 25, 26 and 27 of this act.

2. After review of the application and any further information required by the Superintendent, and an investigation of the applicant if necessary, the

Board shall either grant or deny a license to operate to the applicant. *The Board must deny a license to operate to an applicant who does not provide the documentation required by paragraph (b) of subsection 1.*

3. The license must state in a clear and conspicuous manner at least the following information:

(a) The date of issuance, effective date and term of the license.

(b) The correct name and address of the institution licensed to operate.

(c) The authority for approval and conditions of operation.

(d) Any limitation of the authorization, as considered necessary by the Board.

4. Except as otherwise provided in this subsection, the term for which authorization is given must not exceed 2 years. A provisional license may be issued for a shorter period of time if the Board finds that the applicant has not fully complied with the standards established by NRS 394.241. Authorization may be given for a term of not more than 4 years if:

(a) The institution has been licensed to operate for not less than 4 years preceding the authorization; and

(b) The institution has operated during that period without the filing of a verified complaint against it and without violating any provision of NRS 394.201 to 394.351, inclusive, or any regulation adopted pursuant to those sections.

5. The license must be issued to the owner or governing body of the applicant institution and is nontransferable. If a change in ownership of the institution occurs, the new owner or governing body must, within 10 days after the change in ownership, apply for a new license, and if it fails to do so, the institution's license terminates. Application for a new license because of a change in ownership of the institution is, for purposes of NRS 394.281, an application for renewal of the institution's license.

6. At least 60 days before the expiration of a license, the institution must complete and file with the Superintendent an application form for renewal of its license. The renewal application must ~~[be]~~ *:*

(a) Be reviewed and acted upon as provided in this section ~~[.]~~ *; and*

(b) Include documentation of the actions the institution has taken to comply with the requirements prescribed in sections 25, 26 and 27 of this act.

7. An institution not yet in operation when its application for a license is filed may not begin operation until the license is issued. An institution in operation when its application for a license is filed may continue operation until its application is acted upon by the Board, and thereafter its authority to operate is governed by the action of the Board.

~~[Sec. 21.]~~ *Sec. 34.* NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 16 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. 22.]~~ *Sec. 35.* NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; 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 child has been abused or neglected.

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 or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare 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, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.

(b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a

medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A person working in a school who is licensed or endorsed pursuant to chapter 391 or 641B of NRS.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children ~~[.]~~ *, including, without limitation, a person who is employed by a school district or public school as defined in NRS 385.007.*

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 a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or

endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

~~[Sec. 23.]~~ *Sec. 36.* The provisions of ~~[section]~~ sections 15 and 31 of this act do not apply to any agreement entered into before July 1, 2017, until the agreement is extended or renewed.

~~[Sec. 24.]~~ *Sec. 37.* The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 25.]~~ *Sec. 38.* This act becomes effective on July 1, 2017.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 1070 to Assembly Bill No. 362 expands the requirements of the bill to private schools.

Amendment adopted.

Bill read third time.

Remarks by Senators Hammond and Gansert.

SENATOR HAMMOND:

Assembly Bill No. 362 incorporates in State law certain provisions of federal law designed to prevent persons who have engaged in sexual misconduct with a minor from obtaining new employment. Applicants for employment with a public or private school and certain independent contractors are required to provide employment history to the prospective employer. An applicant who knowingly provides false information or willfully fails to disclose information is subject to discipline and is guilty of a misdemeanor. The prospective employer is required to verify all information. A private school that willfully fails to disclose information is subject to discipline and may be placed on a corrective action plan.

Information submitted to the prospective employer may be used to decide whether to employ an applicant or continue to employ a person. In addition, the information submitted may be reported to the Department of Education, a licensing agency, law enforcement, child welfare or child-protective services. The Superintendent of Public Instruction may deny licensure to an educator who has been arrested for or charged with any crime involving sexual misconduct with a minor or student.

A prospective employer is immune from civil or criminal liability for considering the information submitted when deciding whether to employ a person, and the governing body of the school may allow provisional employment of a person pending review of the employment information submitted.

SENATOR GANSERT

I rise in support of Assembly Bill No. 362. This is a measure that will help stop a phenomenon known as "passing that trash" whereby employees of school districts are able to move from district to district or state to state even though they have been accused of sexual misconduct and, sometimes, have been given settlements. Often, they are allowed to resign without full records, so this bill requires that they self-report and that a full investigation occurs before hiring to ensure they are not employed by our school districts.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 371.

Bill read third time.

Remarks by Senator Cancela.

Assembly Bill No. 371 is important to Senate District No. 10, and I am grateful to the Assemblywoman who brought it forward. It allows for the preservation of historic buildings by creating a revolving fund that allows private-public partnerships on buildings like the Huntridge Theater in Senate District No. 10, which is an incredible and valuable landmark in our State. This building was built in 1924 and is in now in need of restoration. This bill will allow for the conservation of buildings like the Huntridge and others throughout our State and allow us to preserve our history.

Roll call on Assembly Bill No. 371.

YEAS—21.

NAYS—None.

Assembly Bill No. 371 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 395.

Bill read third time.

Remarks by Senators Segerblom, Hammond, Roberson and Gustavson.

SENATOR SEGERBLOM:

Assembly Bill No. 395 revises statutes governing registration and community notification concerning certain juvenile sex offenders. It is similar to a bill we have previously passed, Senate Bill 472, and deals with the Adam Walsh Act. Under this Act, passed in 2007 but never implemented, juveniles who were judged guilty of a sex offense could never challenge that

conviction and were on the registry for life. This bill provides a provision that when the offender reaches adulthood, he or she is able to go to court and show their behavior has changed and possibly be removed from the sexual offender registry. This is similar to Senate Bill 99 that was vetoed by the Governor last Session, and he has told us he likes this bill.

SENATOR HAMMOND:

I rise in support of Assembly Bill No. 395 and would like to discuss the appropriation we have in it for The Harbor facility. That facility was opened in Las Vegas in October 2017. It is currently open Monday through Friday from 8:00 a.m. to 5:00 p.m. It has serviced more than 1,300 children since its opening and provides immediate help for these children. It also caters to families having problems as they can bring in their children and talk about it at this facility. I was able to visit a facility in Denver to see how this system is supposed to operate and was impressed because it is a one-stop shop. Many times a family having problems with a juvenile goes into a facility and can wait weeks before they are put before anyone who can give them help; they often have to wait for the court system to do this. With this program, we are flipping things. The county juvenile justice system is located in the same building along with family services, State adult and child and mental health, Clark County School District Medicaid specialists and social services. This allows those bureaucracies, which when separated are proprietary and compartmentalized about their services, to now communicate about cases and develop practical solutions for children. When these families and children come in, they now get immediate solutions. They do not have to wait weeks, and as a result of that, of the 1,300 children seen so far, only 38 have escalated into the justice system. This is a vast improvement over what we have had previously. This also gives law enforcement the opportunity to bring these youth in and have them processed in less than 15 minutes. It allows them to put these children in the right place at the right time and get back out and do their job. We are asking in this bill for funds to allow this facility to stay open 24 hours a day. All services may not be provided all day, but the services that are necessary will be.

SENATOR ROBERSON:

I support the funding in this bill for The Harbor and other similar programs. I do not believe that funding should have been included in the same bill with some of these policies which I have consistently voted against throughout this Session as they provide leniency for sex offenders. For that reason, I cannot vote "yes" on this bill.

SENATOR GUSTAVSON:

There are many good provisions in the original bill, but other provisions were added that I already voted "no" on and I did not agree with. For those reasons, I will have to oppose this bill.

SENATOR SEGERBLOM:

The sexual-registration provisions of this bill are the same as those in Senate Bill 99, which this Body unanimously voted in favor of in 2015.

Roll call on Assembly Bill No. 395:

YEAS—17.

NAYS—Gustavson, Kieckhefer, Roberson, Settelmeyer—4.

Assembly Bill No. 395 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 417.

Bill read third time.

Remarks by Senator Ratti.

This bill creates the Nevada Main Street Program within the Office of Economic Development in the Office of the Governor and requires the program to be administered in accordance with certain national standards. The bill requires the Executive Director of the Governor's Office of Economic Development (GOED) to adopt regulations setting forth the

requirements to apply and receive approval as a designated local Main Street Program and requires the Executive Director or a designee to coordinate the program and approve or deny applications for grants to designated local Main Street programs. It creates the Account for the Nevada Main Street Program within the State General Fund to accept donations, grants and other types of funding for the award of grants and operation of the program, and finally, makes an appropriation of $350,000 from the State General Fund to the Interim Finance Committee for allocation to GOED for the operation of the program.

Roll call on Assembly Bill No. 417:
YEAS—21.
NAYS—None.

Assembly Bill No. 417 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 436.
Bill read third time.
Remarks by Senator Ratti.
Assembly Bill No. 436 requires the Governor's Office of Economic Development, the Secretary of State's Office and the Regional Business Development Advisory Council for Clark County to provide information to certain business in the State regarding public and private programs to provide financing for small business. This bill additionally requires the Secretary of State's Office to inquire, at the time of an application or renewal for a State business license, whether the business is minority-owned, woman-owned or veteran-owned, and if applicable, to provide information to that business about how that business may become certified as a disadvantaged business enterprise.

Roll call on Assembly Bill No. 436:
YEAS—21.
NAYS—None.

Assembly Bill No. 436 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 472.
Bill read third time.
Remarks by Senator Segerblom.
Assembly Bill No. 472 was chaired by First Lady Sandoval and creates the Juvenile Justice Oversight Commission. It also focuses on risk assessment as a tool to decide where juveniles should be judged in regards to type of sentencing and oversight they need to have. It establishes a precedent for using risk assessment in the Nevada criminal justice system.

Roll call on Assembly Bill No. 472:
YEAS—21.
NAYS—None.

Assembly Bill No. 472 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 491.
Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 491 provides that when a child enters foster care or changes placement while in foster care, the agency providing child-welfare services to the child must determine, in consultation with the local education agency (LEA), whether it is in the child's best interest to remain in his or her school of origin.

If it is determined the child should remain in the school of origin, the child-welfare agency and the relevant LEA must provide the child with transportation to that school. If a dispute related to transportation arises between the agencies and is not resolved within five business days, the dispute must be resolved by court order.

If it is determined the child should attend a public school other than the school of origin, the child-welfare agency must ensure that the child is enrolled in that school. A student who leaves foster care must be allowed to remain enrolled in his or her school of origin until the end of the school year, unless the parent or guardian of the student elects otherwise.

The bill further requires Nevada's Department of Education, each LEA and each child-welfare agency to designate a single point of contact for developing certain policies and procedures relating to children in foster care. The State Board of Education and each LEA must prepare reports concerning children in foster care who attend public school. In addition, a report related to the placement of a child must include information about the child's education. Finally, the bill eliminates the Program of School Choice for Children in Foster Care and repeals a statute regarding deeming as homeless certain children in the custody of a child-welfare agency.

Roll call on Assembly Bill No. 491:

YEAS—21.

NAYS—None.

Assembly Bill No. 491 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 505.

Bill read third time.

Remarks by Senator Parks.

Assembly Bill No. 505 appropriates the following amounts from the General Fund to the Nevada Department of Corrections: $2,339,477 for an electronic medical records system; $1,285,440 for the continued transition from the Nevada Offender Tracking Information System to a new internal system; $2,263,231 for the installation of a new telephone system, and $637,085 for the replacement of the Nevada Staffing Information System used to schedule correctional officers.

Roll call on Assembly Bill No. 505:

YEAS—21.

NAYS—None.

Assembly Bill No. 505 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 506.

Bill read third time.

Remarks by Senator Denis.

Assembly Bill No. 506 appropriates from the State General Fund to the Nevada Gaming Control Board the sum of $2,091,590 for phase three of the Alpha Migration Project and $124,908 to allow for in-state travel for information technology staff to provide support for the project.

Roll call on Assembly Bill No. 506:
YEAS—21.
NAYS—NONE.

Assembly Bill No. 506 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 507.
Bill read third time.
Remarks by Senator Goicoechea.
Assembly Bill No. 507 appropriates funding from the State Highway Fund to the Nevada Highway Patrol Division of the Department of Public Safety for the following: the sum of $8,531,643 for the replacement of 125 fleet vehicles and 18 pickup trucks that have exceeded the mileage threshold, and the sum of $385,252 for the replacement of 9 motorcycles that have exceeded the mileage threshold.

Roll call on Assembly Bill No. 507:
YEAS—21.
NAYS—None.

Assembly Bill No. 507 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 508.
Bill read third time.
Remarks by Senator Denis.
Assembly Bill No. 508 appropriates $1,218,872 for the replacement of dispatch center consoles and portable hand-held radios that have reached the end of their useful life.

Roll call on Assembly Bill No. 508:
YEAS—21.
NAYS—None.

Assembly Bill No. 508 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 509.
Bill read third time.
Remarks by Senator Denis.
Assembly Bill No. 509 appropriates from the State General Fund to the Department of Business and Industry $48,920 for the implementation of an electronic management system for public-works and prevailing-wage surveys in the Office of the Labor Commissioner. The bill requires that any remaining balance of the appropriation must not be committed for expenditure after June 30, 2019, and any portion of the appropriation remaining must revert to the State General Fund on or before September 20, 2019.

Roll call on Assembly Bill No. 509:
YEAS—21.
NAYS—None.

Assembly Bill No. 509 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 510.

Bill read third time.

Remarks by Senator Parks.

Assembly Bill No. 510 provides one-time funding to the Department of Employment, Training and Rehabilitation to upgrade the Vocational Rehabilitation Division's client information system. The bill appropriates General Funds of $655,369, and authorizes expenditures not appropriated by the State General Fund of $2,421,482. Project expenditures would be split between the Bureau of Vocational Rehabilitation and the Bureau of Services to the Blind and Visually Impaired to support enhance the Bureaus' client information system.

Roll call on Assembly Bill No. 510:

YEAS—21.

NAYS—None.

Assembly Bill No. 510 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 514.

Bill read third time.

Remarks by Senator Cannizzaro.

Assembly Bill No. 514 authorizes the Division of Parole and Probation of the Department of Public Safety, if resources are available, to pay all or a portion of the cost of an indigent prisoner's transitional housing if the prisoner's proposed placement plan indicates that the prisoner will reside in transitional housing upon his or her release.

Roll call on Assembly Bill No. 514:

YEAS—21.

NAYS—None.

Assembly Bill No. 514 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 517.

Bill read third time.

Remarks by Senators Woodhouse and Goicoechea.

SENATOR WOODHOUSE:

Assembly Bill No. 517 establishes the maximum allowable salaries for employees in unclassified service. The bill also makes appropriations from the General Fund and Highway Fund for salary increases for non-classified, classified and unclassified State employees. Specifically, the bill includes funding for a 2-percent salary increase for FY 2018, effective July 1, 2017, and a 2-percent salary increase for FY 2019, effective July 1, 2018. Additionally, the bill includes funding to support salary increases effective January 7, 2019, for elected officials in accordance with existing law.

Assembly Bill No. 517 authorizes the Department of Health and Human Services and the Department of Corrections to provide callback pay for unclassified medical positions and pharmacists to perform on-call responsibilities to ensure 24-hour coverage in psychiatric and medical facilities. The bill also authorizes the Gaming Control Board to continue the credential

pay plan, which provides up to $5,000 annually for unclassified employees who possess a current Nevada certified public accountant certificate, a license to practice law or are in a qualifying position as electronic laboratory engineer and possess a Bachelor of Science or higher degree in engineering, electronic engineering or computer science.

Conflict of interest declared by Senator Goicoechea.

Roll call on Assembly Bill No. 517:

YEAS—12.

NAYS—Gansert, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—8.

NOT VOTING—Goicoechea.

Assembly Bill No. 517 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 518.

Bill read third time.

Remarks by Senator Ford.

The General Fund appropriations included in the General Appropriations Act total $2.44 billion in FY 2018 and $2.54 billion in FY 2019 or $4.98 billion over the 2017-19 biennium, an increase of approximately $544.2 million when compared to General Fund appropriations approved by the 2015 Legislature for the 2015-17 biennium. The Act includes Highway Fund appropriations totaling $141.13 million in FY 2018 and $145.72 million in FY 2019, an increase of approximately $4.1 million from the previous biennium.

Office of Workforce Innovation: $192,000 to permanently establish the Office of Workforce Innovation to coordinate workforce development efforts and transfer the Nevada P20 Workforce reporting budget, including General Fund appropriations of $1.7 million to the Office.

Nevada System of Higher Education: Revenue from all sources totaling $1.9 billion, including $1.2 billion in General Fund appropriations; continues funding for the 7 instructional budgets using the funding formula adopted by the 2013 and 2015 Legislatures.

Aging and Disability Services Division: $3.4 million to support home-delivered meal programs for seniors and $12.2 million to retain the current Early Intervention Services delivery and reimbursement model.

Division of Health Care Financing and Policy: $1.42 billion to support a Medicaid average monthly caseload of approximately 663,000 in FY 2018 and 679,000 in FY 2019.

Division of Public and Behavioral Health: $22.7 million to replace Medicaid safety net pass-through revenues; $9.9 million to retain outpatient services in the Northern Nevada Adult Mental Health Services (NNAMHS) and Southern Nevada Adult Mental Health Services (SNAMHS) budgets, including 53.13 positions recommended for elimination; savings of $20.2 million due to other service reductions in NNAMHS and SNAMHS, and the elimination of 126.59 positions.

Division of Child and Family Services: savings of $3.0 million for the continued operation of 20 beds within the 58-bed Desert Willow Treatment Center facility, leaving 38 beds empty and available for an outside agency to operate under a provider agreement or contract.

Department of Corrections: $584.3 million to provide housing for an average of 14,000 inmates, including $11.4 million to fund the transfer of 200 inmates out-of-state to a privately-contracted facility.

Department of Public Safety: $876,000 to create the Office of Cyber Defense and $3.4 million to support a pilot re-entry program, a state-funded electronic monitoring program and a state-funded transitional housing program to improve and expedite the inmate release process.

Department of Conservation and Natural Resources: $6.6 million for the Governor's Explore Your Nevada Initiative for the Division of State Parks to develop the new Walker River State Recreation Area, Tule Springs State Park and the bi-state Van Sickle State Park.

Public Employees' Benefits Program: align the monthly premiums paid by non-state, non-Medicare retirees with similarly participating, same plan and tier, State non-Medicare retirees and approved General Funds of $4.2 million to phase-in increased local government support of their retirees, contingent upon the passage and approval of enabling legislation.

Roll call on Assembly Bill No. 518:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—9.

Assembly Bill No. 518 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Spearman moved that the action whereby Assembly Bill No. 362 was passed be reconsidered.

Motion carried.

Senator Spearman moved that the action whereby the bill was amended with Amendment No. 1070 be rescinded.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was re-referred Senate Bill No. 430, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 498, 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Assembly Bill No. 382; Assembly Joint Resolution No. 14, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAT SPEARMAN, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 554.

Bill read second time and ordered to third reading.

Assembly Bill No. 94.

Bill read second time and ordered to third reading

Assembly Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1110.

SUMMARY—Revises provisions governing juries. (BDR 1-648)

AN ACT relating to juries; revising the provisions governing the selection of jurors; requiring the jury commissioner to report certain information about trial jurors to the Court Administrator; prohibiting certain conduct relating to the use of certain employment information; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a district court is authorized to assign a jury commissioner to select trial jurors. Existing law provides that the jury commissioner assigned to select trial jurors is required to select jurors from qualified electors of the county not exempt from jury duty, whether registered as voters or not. (NRS 6.045) Existing law further requires the Department of Motor Vehicles to provide a list of registered owners of motor vehicles and a list of licensed drivers for use in selecting jurors. (NRS 482.171, 483.225) Certain public utilities are also required to provide a list of customers for use in the selection of jurors. (NRS 704.206) Section 4.7 of this bill requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to provide a list of persons who receive benefits for use in jury selection.

Section 1 of this bill revises the process for selecting trial jurors by requiring the jury commissioner to compile and maintain a list of qualified electors from information provided by: (1) a list of persons who are registered to vote in the county; (2) the Department of Motor Vehicles; ~~[and]~~ (3) the Employment Security Division of the Department of Employment, Training and Rehabilitation; and (4) certain public utilities. Section 1 also requires the jury commissioner to: (1) keep a record of the name, occupation, address and race of each trial juror who is selected and of each trial juror who appears for jury service; and (2) report this information once a year to the Court Administrator.

Existing law makes confidential the employment information collected by the Employment Security Division of the Department of Employment, Training and Rehabilitation and prohibits the release of such information except for limited purposes. (NRS 612.265) Section 4.7 provides that if, in addition to those acts prohibited by existing law, certain persons use information collected by the Division for purposes other than those authorized by the Administrator or by law, or fail to protect and prevent the unauthorized use or dissemination of such information, the person is guilty of a gross misdemeanor.

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

Section 1. NRS 6.045 is hereby amended to read as follows:

6.045 1. The district court may by rule of court designate the clerk of the court, one of the clerk's deputies or another person as a jury commissioner, and may assign to the jury commissioner such administrative

duties in connection with trial juries and jurors as the court finds desirable for efficient administration.

2. If a jury commissioner is so selected, the jury commissioner shall from time to time estimate the number of trial jurors which will be required for attendance on the district court and shall select that number from the qualified electors of the county not exempt by law from jury duty, whether registered as voters or not. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists are established by the jury commissioner. ~~[The jury commissioner shall keep a record of the name, occupation and address of each person selected.]~~

3. *The jury commissioner shall, for the purpose of selecting trial jurors, compile and maintain a list of qualified electors from information provided by:*

(a) A list of persons who are registered to vote in the county;

(b) The Department of Motor Vehicles pursuant to NRS 482.171 and 483.225; ~~[and]~~

(c) The Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 612.265; and

(d) A public utility pursuant to NRS 704.206.

4. In compiling and maintaining the list of qualified electors, the jury commissioner shall avoid duplication of names.

5. The jury commissioner shall:

(a) Keep a record of the name, occupation, address and race of each trial juror selected pursuant to subsection 2;

(b) Keep a record of the name, occupation, address and race of each trial juror who appears for jury service; and

(c) Prepare and submit a report to the Court Administrator which must:

(1) Include statistics from the records required to be maintained by the jury commissioner pursuant to this subsection, including, without limitation, the name, occupation, address and race of each trial juror who is selected and of each trial juror who appears for jury service;

(2) Be submitted at least once a year; and

(3) Be submitted in the time and manner prescribed by the Court Administrator.

6. The jury commissioner shall not select the name of any person whose name was selected the previous year, and who actually served on the jury by attending in court in response to the venire from day to day until excused from further attendance by order of the court, unless there are not enough other suitable jurors in the county to do the required jury duty.

Sec. 2. NRS 482.171 is hereby amended to read as follows:

482.171 1. The Department shall provide a list of registered owners of motor vehicles in any county upon the request of a district judge *or jury commissioner* of the judicial district in which the county lies for use by the district judge *or jury commissioner* for purposes of jury selection.

2. The court ~~[which]~~ *or jury commissioner who* requests the list shall reimburse the Department for the reasonable cost of the list.

Sec. 3. NRS 483.225 is hereby amended to read as follows:

483.225 1. The Department shall provide a list of licensed drivers in any county upon the request of a district judge *or jury commissioner* of the judicial district in which the county lies for use in selecting jurors.

2. The court ~~[which]~~ *or jury commissioner who* requests the list shall reimburse the Department for the reasonable cost of the list.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. (Deleted by amendment.)

Sec. 4.7. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.040, make the information obtained by the Division available to:

(a) The Board of Regents of the University of Nevada for the purpose of complying with the provisions of subsection 4 of NRS 396.531; and

(b) The Director of the Department of Employment, Training and Rehabilitation for the purpose of complying with the provisions of paragraph (d) of subsection 1 of NRS 232.920.

4. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

➥ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment

status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

8. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. In addition to the provisions of subsection 6, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

10. *Upon the request of any district judge or jury commissioner of the judicial district in which the county is located, the Administrator shall, in accordance with other agreements entered into with other district courts and in compliance with 20 C.F.R. Part 603, and any other applicable federal laws and regulations governing the Division, furnish the name, address and date of birth of persons who receive benefits in any county, for use in the selection of trial jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list of such persons shall reimburse the Division for the reasonable cost of providing the requested information.*

11. The Division of Industrial Relations of the Department of Business and Industry shall periodically submit to the Administrator, from information in the index of claims established pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

~~[11.]~~ *12.* The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of

any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

~~[12. If any employee or member of the Board of Review, the]~~

13. The Administrator *,* ~~[or]~~ any employee *or other person acting on behalf* of the Administrator, ~~[in violation of the provisions of this section, discloses]~~ *or any employee or other person acting on behalf of an agency or entity allowed to access* information obtained from any employing unit or person in the administration of this chapter, or ~~[if]~~ any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter ~~[uses]~~ *, is guilty of a gross misdemeanor if he or she:*

(a) Uses or permits the use of the list for any political purpose ~~[, he or she is guilty of a gross misdemeanor.~~

~~13.]~~ *;*

(b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or

(c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 5. This act becomes effective on July 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 1110 to Assembly Bill No. 207 corrects an erroneously adopted amendment by returning the bill to the version approved in its first reprint by Assembly Amendment No. 394.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Segerblom moved that Senate Bill No. 183 be taken from the Secretary's desk and placed on the Second Reading File, and considered next.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1107.

SUMMARY—Revises provisions governing the collection of a hospital bill. (BDR 40-694)

AN ACT relating to hospitals; limiting the amount that a hospital may collect or attempt to collect from a patient or other responsible party under certain circumstances; establishing provisions relating to statutory liens on a judgment or settlement; requiring a hospital to provide notice of intent to file such a lien in certain circumstances; ~~[providing for an award of damages for improperly asserting or perfecting such a lien;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law limits the collection rights of a hospital if a patient is covered by a policy of health insurance issued by a third party and the hospital has a contract with that party. The hospital may not collect or attempt to collect its charges from an insurer other than a health insurer, including an insurer that provides coverage under a policy of casualty or property insurance. These limitations currently do not apply to Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the hospital bill. (NRS 449.758) Section 2 of this bill limits the amount that the hospital may collect or attempt to collect from the patient or other responsible party to ~~[the lesser of: (1)]~~ the amounts payable by or on behalf of the patient under the policy. ~~[; or (2) the amount provided in the contract between the hospital and the third party.]~~ Section 2 also deletes the specific reference to property insurance. ~~[and removes the exemption for Medicaid, the Children's Health Insurance Program and other public programs.]~~

Section 2 additionally requires a hospital that collects or receives any payments from an insurer that provides medical payment coverage under a policy of casualty insurance to return to the patient ~~[or the person identified in the hospital bill as the responsible party]~~ any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance not later than 30 days after a determination is made concerning coverage.

Existing law provides that a hospital has statutory liens for any amount due to the hospital for the reasonable value of the care rendered to an injured person. The liens apply to any award of damages or settlement obtained by the injured person or the personal representative of the injured person from a person responsible for the injury causing the hospitalization or, in the case of a county or district hospital, any real property of the injured person or other responsible party. (NRS 108.590, 108.662) Under section 2.5 of this bill, if a hospital provides care to an injured person who has a policy of health insurance issued by a third party and the hospital has a contract with that party and wishes to be able to perfect a statutory lien on a judgment or settlement, the hospital is required to send a notice of intent to file a lien to certain persons ~~[after the hospital submits a claim to the third party but]~~ not later than 90 days after the termination of the hospitalization of the injured person. ~~[After the claim is accepted by the third party or, if the claim is~~

~~denied, all available appeals have been exhausted, the hospital is required to mail written notice to the injured person or the personal representative of the injured person, specifying the amount due. Section 2.5 authorizes a hospital to perfect the statutory lien for any amount due if, within 30 days after such written notice is mailed, the amount due is not paid or an agreement for a payment plan is not entered into.]~~ Within 30 days after sending such a notice, section 2.5 requires a hospital to proceed with any efforts to collect on any amount owed to the hospital in accordance with existing law. Section 2.5 additionally provides that if a hospital provides notice of intent to file a lien, the hospital must be provided notice of any judgment, settlement or compromise.

~~[Section 2.7 of this bill provides that a statutory lien on a judgment or settlement is the exclusive method of collection against an injured person and any amount received pursuant to the lien constitutes complete satisfaction of any debt owed by the injured person to the hospital for the care provided.~~

~~Section 2.9 of this bill provides that if a hospital improperly asserts or perfects a statutory lien on a judgment or settlement, the injured person is entitled to damages equal to twice the amount of the lien.~~

~~Under section]~~ Section 3.7 of this bill ~~[, if a hospital perfects a lien and subsequently receives information that the injured person has a policy of health insurance issued by a third party and the hospital has a contract with that party, the hospital is required to file a claim with the third party and wait for the claim to be adjudicated and all available appeals to be exhausted before the hospital is able to collect any amount under the lien.~~

~~Sections 3 and 4 of this bill limit the amount of a hospital's statutory liens in certain circumstances.]~~ makes conforming changes.

Section 2.6 of this bill prohibits the hospital from receiving an amount more than 55 percent of the charges billed by the hospital if an injured person may be eligible for Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 449.758 is hereby amended to read as follows:

449.758 1. Except as otherwise provided in subsection ~~[2,]~~ *3,* if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital and the hospital has a contractual agreement with the third party, the hospital ~~[shall]~~ *:*

(a) Shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 . ~~[and shall]~~

(b) Shall not collect or attempt to collect from the patient or other responsible party more than the ~~[lesser of:~~

~~(1) The~~ *sum of the amounts of any deductible, copayment or coinsurance payable by or on behalf of the patient under the policy of health insurance* . ~~; or~~

~~(2) The amount provided in the contractual agreement between the hospital and the third party.~~

(c) Shall not collect or attempt to collect that amount from:

~~(a)~~ *(1)* Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or

~~(b)~~ *(2)* An insurer other than ~~a health~~ *an* insurer ~~, including, without limitation,~~ *that provides coverage under a policy of health insurance or* an insurer that provides coverage *for medical payments* under a policy of casualty ~~or property~~ insurance.

2. *If the hospital collects or receives any payments from an insurer that provides coverage for medical payments under a policy of casualty insurance, the hospital shall, not later than 30 days after a determination is made concerning coverage, return to the patient* ~~or the person identified in the hospital bill as the responsible party~~ *any amount collected or received that is in excess of the deductible, copayment or coinsurance payable by or on behalf of the patient* ~~or person~~ *under the policy of health insurance.*

3. This section does not apply to :

(a) Amounts ~~amounts~~ owed to the hospital *which are not covered* under the policy of health insurance ~~that are not collectible .~~ ; or

(b) Medicaid, *Medicare*, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

~~3.~~ *4.* This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

~~4.~~ *5.* As used in this section, "third party" ~~has the meaning ascribed to it in NRS 439B.260.~~ *means:*

(a) An insurer, as defined in NRS 679B.540;

(b) A health benefit plan, as defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;

(c) A participating public agency, as defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or

(d) Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.

Sec. 2.1. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.3 to 2.9, inclusive, of this act.

Sec. 2.3. *As used in NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, unless the context otherwise requires, "third party" has the meaning ascribed to it in subsection 5 of NRS 449.758.*

Sec. 2.5. *1. If a hospital provides hospital care to an injured person who has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party and wishes to be able to perfect a lien pursuant to NRS 108.610, the hospital shall, ~~[after submitting a claim to the third party but]~~ not later than 90 days after the termination of hospitalization, send a notice of intent to file a lien by registered or certified mail to:*

(a) The insurance carrier, if known, which has insured against liability of the person alleged to be responsible for causing the injury and liable on account thereof and from which damages are claimed and any legal representative of that person; and

(b) The injured person or personal representative of the injured person, as applicable, and any legal representative of the injured person or personal representative.

2. ~~[The]~~ Within 30 days after sending a notice ~~[sent]~~ pursuant to subsection 1 ~~[must contain the following information:~~

~~(a) The charges billed by the hospital for the services provided to the injured person;~~

~~(b) The reasonable estimate by the hospital of the amount to be paid by the third party; and~~

~~(c) The reasonable estimate by the hospital of the amount of any deductible, copayment or coinsurance to be paid by the injured person.]~~ , the hospital shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757.

3. ~~[After a claim is submitted to a third party and the claim is accepted or, if the claim is denied, all available appeals have been exhausted, the hospital shall deliver written notice by first class mail to the injured person or the personal representative of the injured person, as applicable, specifying the total amount due.~~

~~4. If, within 30 days after the date that written notice is mailed pursuant to subsection 3, the total amount due is not paid or the injured person or the personal representative of the injured person does not enter into an agreement with the hospital to make payments toward the amount due, the hospital may perfect the lien for any amount due in accordance with the provisions of NRS 108.610.~~

~~5.]~~ If an injured person or the personal representative of an injured person is awarded by judgment or obtains by a settlement or compromise a sum of money after a notice of intent to file a lien is received pursuant to this section:

(a) Any person receiving such notice shall provide written notice to the hospital of the judgment, settlement or compromise; and

(b) The insurance carrier and any attorney holding the money in trust shall proceed as if the lien is perfected pursuant to NRS 108.610 ~~[.]~~ unless the hospital fails to comply with subsection 2.

4. If the hospital fails to comply with subsection 2, the notice of intent to file a lien shall be deemed void ab initio.

5. This section does not apply to Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

Sec. 2.6. If an injured person may be eligible for Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, the hospital shall not receive any amount pursuant to a lien asserted pursuant to NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act which is equal to more than 55 percent of the charges billed by the hospital.

Sec. 2.7. ~~[*A lien asserted pursuant to NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act is the exclusive method of collection against an injured person, and any amount received pursuant to the lien constitutes complete satisfaction of any debt owed by the injured person to the hospital for the hospital care provided.*]~~ (Deleted by amendment.)

Sec. 2.9. ~~[*If a hospital asserts or perfects a lien in violation of NRS 108.590 to 108.660, inclusive, and sections 2.3 to 2.9, inclusive, of this act, the injured person is entitled to damages equal to twice the amount of the lien.*]~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 108.590 is hereby amended to read as follows:~~

~~108.590 1. [Whenever] *Except as otherwise provided in subsection 2, whenever* any person receives hospitalization on account of any injury, and the injured person, or a personal representative after the person's death, claims damages from the person responsible for causing the injury, the hospital has a lien upon any sum awarded the injured person or the personal representative by judgment or obtained by a settlement or compromise to the extent of the amount due the hospital for the reasonable value of the hospitalization rendered before the date of judgment, settlement or compromise.~~

~~*2. Except as otherwise provided in subsection 3, if a hospital provides hospital care to an injured person who has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party, the reasonable value of the hospitalization rendered is limited to the lesser of:*~~

~~*(a) The sum of the amounts of any deductible, copayment or coinsurance payable by or on behalf of the injured person under the policy of health insurance; or*~~

~~*(b) The amount provided in the contractual agreement between the hospital and the third party.*~~

~~*3. The provisions of subsection 2 do not apply if the third party denies coverage for the services provided to the injured person and all available appeals provided pursuant to the policy of health insurance have been exhausted. For the purposes of this subsection, a claims adjudication by a third party that another person is responsible for payment is not a denial of coverage.*~~

~~4. The lien provided by this section is:~~

~~(a) Not valid against anyone coming under the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.~~

~~(b) In addition to the lien provided by NRS 108.662.~~] (Deleted by amendment.)

Sec. 3.3. NRS 108.600 is hereby amended to read as follows:

108.600 1. No rights or claims for liens under NRS 108.590 to 108.660, inclusive, *and sections 2.3 to 2.9, inclusive, of this act* shall be allowed for hospitalization rendered an injured person after a settlement has been effected by or on behalf of the party causing the injury.

2. No lien shall apply or be allowed against any sum incurred by the injured party for necessary attorney fees, costs and expenses incurred by the injured party in securing a settlement, compromise or recovering damages by an action at law.

Sec. 3.7. NRS 108.610 is hereby amended to read as follows:

108.610 ~~*[1.]*~~ In order to perfect ~~[the]~~ *a* lien ~~[,]~~ *provided by NRS 108.590,* the hospital or the owner or operator thereof ~~[shall:~~

~~1.]~~ *must comply with the provisions of section 2.5 of this act, if applicable, and:*

~~*[(a)]*~~ *1.* Before the payment of any money to the injured person , *the personal representative of the injured person* or to a legal representative as compensation for injuries received, record a notice of lien, substantially in the form prescribed in NRS 108.620, containing an itemized statement of the amount claimed. The notice of lien must be filed with:

(a) ~~*[(1)]*~~ The county recorder of the county wherein the hospital is located; and

(b) ~~*[(2)]*~~ The county recorder of the county wherein the injury was suffered, if the injury was suffered in a county other than that wherein the hospital is located.

2. ~~*[(b)]*~~ Before the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon the person alleged to be responsible for causing the injury and liable for damages on account thereof and from which damages are claimed.

3. ~~*[(c)]*~~ Before the date of judgment, settlement or compromise, serve a certified copy of the notice of lien by registered or certified mail upon the insurance carrier, if known, which has insured against liability of the person alleged to be responsible for causing the injury and liable for damages on account thereof and from which damages are claimed.

~~*[2. If a hospital perfects a lien and, before collecting any amount under the lien, receives information that the injured person has a policy of health insurance issued by a third party that provides health coverage for care provided at the hospital and the hospital has a contractual agreement with the third party, the hospital must file a claim with the third party and wait for the claim to be adjudicated and all available appeals to be exhausted before the hospital may collect any amount under the lien.]*~~

Sec. 4. ~~[NRS 108.662 is hereby amended to read as follows:~~

~~108.662 1. Except as otherwise provided in subsection 4, a county or district hospital has a lien upon the real property of a person for charges incurred and unpaid for the care of the owner of the property or a person for whose support the owner is legally responsible. *If the provisions of NRS 449.757 or 449.758 are applicable, the amount of the lien is limited to the amount the hospital is entitled to collect pursuant to those sections.*~~

~~2. The notice of the lien must be served upon the owner by certified or registered mail and filed in the office of the county recorder of the county where the real property is located not sooner than 90 days nor later than:~~

~~(a) Three years after the patient's discharge; or~~

~~(b) One year after the patient defaults on payments made pursuant to a written contract,~~

~~➥ whichever is later, except that the notice may be served and filed within 6 months after any default pursuant to a written contract.~~

~~3. The notice of the lien must contain:~~

~~(a) The amount due;~~

~~(b) The name of the owner of record of the property; and~~

~~(c) A description of the property sufficient for identification.~~

~~4. If the amount due as stated in the notice of lien is reduced by payments and any person listed in subsection 2 of NRS 108.665 gives written notice of that reduction to the county or district hospital which recorded the lien, the county or district hospital shall amend the notice of lien stating the amount then due, within 10 days after it receives the written notice.~~

~~5. A county or district hospital shall not assign, sell or transfer the interest of the hospital in a lien created pursuant to this section.]~~ (Deleted by amendment.)

Sec. 4.5. 1. The amendatory provisions of section 2.6 of this act apply to a person who is admitted to a hospital on or after July 1, 2017.

2. The amendatory provisions of sections 2, 2.3, 2.5 and 2.7 to 4, inclusive, of this act apply to a person who is admitted to a hospital on or after October 1, 2017.

Sec. 5. 1. This ~~[act becomes]~~ section and sections 2.1, 2.6 and 4.5 of this act become effective on July 1, 2017.

2. Sections 1, 2, 2.3, 2.5 and 2.7 to 4, inclusive, of this act become effective on October 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 1107 to Assembly Bill No. 183 deletes provisions authorizing a damage award for an improperly perfected lien. It provides that a hospital may collect the amounts payable by or on behalf of the patient under an insurance policy; deletes provisions requiring that a hospital must return to "the person identified on the hospital bill as the responsible party" any amounts collected in excess of the deductible, copayment or coinsurance, and provides that the hospital must return such funds to the patient; provides that a hospital must, within 30 days after sending notice of intent to file a lien, proceed with any collection efforts in accordance with existing law. If a hospital fails to do so, the lien is deemed void and prohibits a hospital from collecting more than 55 percent of the charges billed by a hospital if the injured person may be eligible for Medicaid, Medicare, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

Amendment adopted.

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

Assembly Bill No. 326.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1109.

SUMMARY—Revises provisions relating to reports of presentence investigations and general investigations. (BDR 14-1117)

AN ACT relating to criminal procedure; revising provisions relating to certain information included in reports of presentence investigations; authorizing the court to order the Division of Parole and Probation of the Department of Public Safety to correct the contents of a report of any presentence investigation or general investigation in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Division of Parole and Probation of the Department of Public Safety to include in the report of any presentence investigation any information that it believes may be helpful in imposing a sentence, in granting probation or in correctional treatment. (NRS 176.145) Existing law also generally requires the Division to disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court the factual content of the report of any presentence investigation and the recommendations of the Division not later than 14 calendar days before the defendant will be sentenced. (NRS 176.153)

Section 1 of this bill provides that if the Division includes in the report of any presentence investigation any information relating to the defendant being affiliated with or a member in a criminal gang and the Division reasonably believes such information is disputed by the defendant, the Division is required to provide with the information disclosed, before the defendant will be sentenced, copies of all documentation relied upon by the Division as a basis for including such information in the report. ~~[Section 1 also provides that if such information is disputed by the defendant, the Division or the prosecuting attorney is required to prove by clear and convincing evidence that the information is accurate.]~~

Existing law requires the Division to afford an opportunity to the prosecuting attorney, the counsel for the defendant and the defendant to object to factual errors in a report of any presentence investigation or general investigation. (NRS 176.156) Section 2 of this bill authorizes the court to order the Division to correct the contents of any such report following sentencing of the defendant if the prosecuting attorney and the defendant stipulate to correcting the contents of any such report within 180 days after the date on which the judgment of conviction was entered.

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

Section 1. NRS 176.153 is hereby amended to read as follows:

176.153 *1.* Except as otherwise provided in ~~[this section,]~~ *subsection 3,* the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than 14 calendar days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.

2. In addition to the disclosure requirements set forth in subsection 1, if the Division includes in the report of any presentence investigation made pursuant to NRS 176.135 any information relating to the defendant being affiliated with or a member in a criminal gang and the Division reasonably believes such information is disputed by the defendant, the Division shall provide with the information disclosed pursuant to subsection 1 copies of all documentation relied upon by the Division as a basis for including such information in the report, including, without limitation, any field interview cards. ~~*[If such information is disputed by the defendant, the Division or the prosecuting attorney must prove by clear and convincing evidence that the information is accurate.]*~~

3. The defendant may waive the minimum period required by ~~[this section.]~~ *subsection 1.*

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 193.168.

Sec. 2. NRS 176.156 is hereby amended to read as follows:

176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:

(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division ~~[,]~~ *and, if applicable, provide the documentation required pursuant to subsection 2 of NRS 176.153,* in the period provided in NRS 176.153.

(b) Any general investigation made pursuant to NRS 176.151.

➥ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations. *The court may order the Division to correct the contents of any such report following sentencing of the defendant if, within 180 days after the date on*

which the judgment of conviction was entered, the prosecuting attorney and the defendant stipulate to correcting the contents of any such report.

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.

3. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Division of Public and Behavioral Health of the Department of Health and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:

(a) A sex offender as defined in NRS 213.107; or

(b) An offender who has been determined to be mentally ill.

4. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Nevada Gaming Control Board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.

5. Except for the disclosures required by subsections 1 to 4, inclusive, a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record.

Sec. 3. The amendatory provisions of this act apply to a report of any presentence investigation or general investigation that is made on or after October 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 1109 to Assembly Bill No. 326 deletes language requiring that the Division of Parole and Probation or a prosecuting attorney must prove by clear and convincing evidence that disputed information contained in a presentencing report concerning a defendant being affiliated with or a member of a gang is accurate.

Amendment adopted.

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

Assembly Bill No. 405.

Bill read second time.

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

Amendment No. 1100.

SUMMARY—Establishes certain protections for and ensures the rights of a person who uses renewable energy in this State and revises provisions governing net metering. (BDR 52-959)

AN ACT relating to renewable energy; creating the contractual requirements for an agreement for the lease or purchase of a distributed generation system and a power purchase agreement; describing utility rates; establishing the minimum warranty requirements for an agreement concerning a distributed generation system; creating the Renewable Energy Bill of Rights; requiring certain electric utilities to file a request with the Public Utilities Commission of Nevada to establish an optional time-variant rate schedule for customers; requiring a utility to ~~[charge a net metering adjustment charge]~~ provide a credit to certain customer-generators ~~[, requiring the Legislative Committee on Energy to make certain recommendations to the Legislature;]~~ for excess electricity generated by the net metering systems of such customer-generators; revising provisions governing the eligibility of certain customers of electric utilities in this State to participate in net metering; revising various other provisions relating to net metering; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 9-11 of this bill set forth the requirements for the cover page, provisions and summary disclosure statement of agreements for the lease of a distributed generation system. Sections 12-14 of this bill set forth the requirements for the cover page, provisions and summary disclosure statement of agreements for the purchase of a distributed generation system. Sections 15-17 of this bill set forth the requirements for the cover page, provisions and summary disclosure statement of agreements for the sale of the output of a distributed generation system, known as a power purchase agreement.

Section 18 of this bill sets forth the disclosure relating to utility rates that must be included with an agreement created pursuant to sections 9-17 if the agreement makes a written reference to the price of electricity that is provided by an electric utility. Section 19 of this bill sets forth the minimum warranty requirements for an agreement created pursuant to sections 9-17 concerning a distributed generation system.

Section 20 of this bill: (1) establishes that it is a deceptive trade practice if a person fails to comply with sections 2-20 of this bill ~~[.]~~ ; and (2) authorizes the Public Utilities Commission of Nevada to direct a customer to the appropriate person or agency to resolve a complaint concerning a solar installation company. Section 20 additionally establishes that it is consumer fraud if a person violates any provision of sections 2-20. Section 20 further requires that any document described in sections 9-19 be provided in: (1) English; or (2) Spanish, if any person so requests.

Sections 22-25 of this bill create the Renewable Energy Bill of Rights that applies to each natural person who is a resident of this State.

Existing law defines "net metering" as the measure of the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator that is fed back to the utility.

(NRS 704.769) Section 27 of this bill requires electric utilities to file a request with the ~~[Public Utilities]~~ Commission ~~[of Nevada]~~ to establish an optional time-variant rate schedule for customers, including customer-generators that acquire an energy storage system. Section 27 further requires that such a request be designed to expand and accelerate the development and use of energy storage systems in this State. Section 27 additionally authorizes the Commission to approve any such request that the Commission finds to be in the public interest.

Section ~~[28]~~ 28.3 of this bill ~~[requires]~~ provides that if a -customer-generator accepts the offer of a utility ~~[to charge a net metering adjustment charge to each]~~ for net metering and has a net metering system with a capacity of 25 kilowatts or less, the utility is required to provide the customer-generator ~~[who accepts the offer of a utility for net metering.]~~ a credit for certain excess electricity that is generated by the customer-generator. Section ~~[28]~~ 28.3 requires that this ~~[net metering adjustment charge:]~~ credit: (1) ~~[applies]~~ apply to each kilowatt-hour of excess electricity that is generated by a customer-generator; and (2) equals a percentage of the rate the customer-generator would have paid for a kilowatt-hour of electricity supplied by the utility at the time the customer-generator fed the kilowatt-hour of excess electricity back to the utility. Section ~~[28]~~ 28.3 further provides that this percentage be tiered based on the amount of cumulative installed capacity ~~[and peak demand for electricity]~~ in this State ~~[.~~

~~Section 29 of this bill requires the Legislative Committee on Energy, in consultation with the Commission, to make certain recommendations to the Legislature within 6 months of the Commission determining that the cumulative installed capacity of all net metering systems in this State exceeds 800 megawatts and 10 percent of the peak demand for electricity in this State for the previous year.]~~ of net metering systems with a capacity of not more than 25 kilowatts.

Section 28.5 of this bill requires the Commission to open an investigatory docket to establish a methodology for determining the effect of net metering on rates charged by a utility to its customers. On or before June 30, 2020 and biennially thereafter, the Commission is required to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the impact of net metering on such rates.

Section 28.7 of this bill enacts provisions relating to net metering that would become effective on the date that the Legislature provides by law for an open, competitive electric energy market in a service territory. Under section 28.7, if the Legislature provides by law for such a market: (1) each person providing electric service in the service territory under such a law would be required to offer net metering to its customers; (2) the Commission or any other agency designated by such a law to regulate electric service in this State must prohibit any person providing electric service in the service territory from impeding or interrupting the operation or performance or

otherwise restricting the output of an existing net metering system; and (3) a customer-generator must be required to pay any costs charged to other customers of the customer-generator's provider of electric service who are in the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system.

Existing law requires each electric utility in this State to offer net metering to customer-generators operating in the service area of the utility until the date on which the cumulative capacity of all net metering systems in this State for which electric utilities have accepted completed applications is 235 megawatts. (NRS 704.773)

Section 31 of this bill amends existing law to require each electric utility to offer net metering to customer-generators operating within the service area of the utility. Section 31 further requires the utility to not: (1) charge the customer-generator any fee or charge that is different than that charged to other customers of the utility to which the customer-generator would belong if he or she did not have a net metering system; and (2) reduce the amount of the minimum monthly charge of the customer-generator based on the electricity the customer-generator feeds back to the utility. Section 31 additionally requires the Commission and a utility to allow the customer-generator to continue net metering at the location at which the system is originally installed ~~[for the life of the net metering system or]~~ for 20 years. ~~[, whichever is longer.]~~

Existing law sets forth that after the date on which the cumulative capacity is 235 megawatts, electric utilities are to offer net metering to customer-generators in accordance with a tariff filed by the utility and approved by the Commission. (NRS 704.7735) Section 33 of this bill repeals this provision.

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

Section 1. The Legislature hereby finds and declares that the provisions of this act are necessary to provide for the immediate reestablishment of the rooftop solar market in this State for the purposes of:

1. Encouraging the creation of new jobs opportunities in this State;

2. Advancing the development of renewable energy using the natural solar resources of this State; and

3. Ensuring that this State maintains flexibility considering the possibility that the ballot question known as the "Energy Choice Initiative" may be approved by the voters at the 2018 general election and alter the structure of the electricity market in this State.

~~[Section 1.]~~ *Sec. 1.5.* Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *As used in sections 2 to 20, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commission" means the Public Utilities Commission of Nevada.*

Sec. 3.5. *"Disclosure" means a written statement.*

Sec. 4. *"Distributed generation system" means a system or facility for the generation of electricity:*

1. That uses solar energy to generate electricity;

2. That is located on the property of a customer of an electric utility;

3. That is connected on the customer's side of the electricity meter;

4. That provides electricity primarily to offset customer load on that property; and

5. The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive ~~[.]~~ *, and sections 27 to 29, inclusive, of this act.*

Sec. 5. *"Host customer" means either:*

1. The customer of record of an electric utility at the location where an energy system that uses photovoltaic cells and solar energy to generate electricity will be located; or

2. A person who has been designated by the customer of record of an electric utility in a letter to the utility explaining the relationship between that person and the customer of record.

Sec. 6. *"Portfolio energy credit" has the meaning ascribed to it in NRS 704.7803.*

Sec. 7. *"Power purchase agreement" means an agreement in which a solar installation company:*

1. Arranges for the design, installation, maintenance and energy output of a distributed generation system; and

2. Sells the electricity generated from a distributed generation system to the host customer.

Sec. 8. *1. "Solar installation company" means any form of business organization or any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization, that transacts business directly with a residential customer of an electric utility to:*

(a) Sell and install a distributed generation system; or

(b) Install a distributed generation system owned by a third party from whom the customer:

(1) Leases a distributed generation system; or

(2) Purchases electricity generated by a distributed generation system.

2. The term does not include entities that are third party:

(a) Owners of a distributed generation system; or

(b) Financiers of a distributed generation system who do not sell or install the distributed generation system.

Sec. 9. *An agreement for the lease of a distributed generation system must include a cover page that provides the following information in at least 10-point font:*

1. The amounts due at the signing for and at the completion of the installation or any inspection of the distributed generation system.

2. An estimated timeline for the installation of the distributed generation system.

3. The estimated amount of the monthly payments due under the lease in the first year of operation of the distributed generation system.

4. The length of the term of the lease.

5. A description of any warranties.

6. The rate of any payment increases.

7. The identification of any state or federal tax incentives that are included in calculating the amount of the monthly payments due under the lease.

8. The estimated production of the distributed generation system in the first year of operation.

9. A description of the terms for renewal or any other options available at the end of the term of the lease.

10. A description of any option to purchase the distributed generation system before the end of the term of the lease.

11. Notice of the existence of the Recovery Fund administered by the State Contractors' Board pursuant to NRS 624.470.

12. Notice that a person financially damaged by a licensed contractor who performs work on a residence may be eligible to recover certain financial damages from the Recovery Fund.

13. Notice that a host customer may file a complaint with the Public Utilities Commission of Nevada.

14. Contact information for the State Contractors' Board ~~[,]~~ and the Public Utilities Commission of Nevada, including, without limitation, a telephone number.

Sec. 10. *An agreement for the lease of a distributed generation system must include, without limitation, the following information in at least 10-point font:*

1. The name, mailing address, telephone number and number of the contractor's license of the solar installation company.

2. The name, mailing address and telephone number of:

(a) The lessor of the distributed generation system; and

(b) The name, mailing address and telephone number of the person responsible for all maintenance of the distributed generation system, if different from the solar installation company.

3. An estimated timeline for the installation of the distributed generation system.

4. The length of the term of the lease.

5. A general description of the distributed generation system.

6. The amounts due at the signing for and at the completion of the installation or any inspection of the distributed generation system.

7. A description of any warranties.

8. The amount of the:

(a) Monthly payments due under the lease; and

(b) Total payments due under the lease, excluding taxes.

9. A description of any other one-time or recurring charges, including, without limitation, a description of the circumstances that trigger any late fees.

10. A description of any obligation the lessor has regarding the installation, repair or removal of the distributed generation system.

11. A description of any obligation the lessor has regarding construction of and insurance for the distributed generation system.

12. A description of any:

(a) Taxes due at the commencement of the lease; and

(b) Estimation of taxes known to be applicable during the term of the lease, subject to any change in the state or local tax rate or tax structure.

13. A copy of the warranty for the distributed generation system.

14. A disclosure notifying the lessee of the transferability of the obligations under the warranty to a subsequent lessee.

15. The identification of any state or federal tax incentives that are included in calculating the amount of the monthly payments due under the lease.

16. A description of the ownership of any tax credits, tax rebates, tax incentives or portfolio energy credits in connection with the distributed generation system.

17. Any terms for renewal of the lease.

18. A description of any option to purchase the distributed generation system before the end of the term of the lease.

19. A description of all options available to the host customer in connection with the continuation, termination or transfer of the lease in the event of the:

(a) Sale of the property to which the distributed generation system is affixed; or

(b) Death of the lessee.

20. A description of any restrictions that the lease imposes on the modification or transfer of the property to which the distributed generation system is affixed.

21. The granting to the lessee of the right to rescind the lease for a period ending not less than 3 business days after the lease is signed.

22. An estimate of the amount of electricity that could be generated by the distributed generation system in the first year of operation.

23. A signature block that is signed and dated by the lessor and the lessee of the distributed generation system.

Sec. 11. *1. An agreement for the lease of a distributed generation system must include a disclosure that is not more than 3 pages in length and is in at least 10-point font.*

2. The disclosure described in subsection 1 must be separate from the cover page and agreement described in sections 9 and 10 of this act.

3. The disclosure described in subsection 1 must include, without limitation:

(a) The name, mailing address, telephone number and electronic mail address of the lessor;

(b) The name, mailing address, telephone number, electronic mail address and number of the contractor's license of the person who installed the distributed generation system, if different from the solar installation company;

(c) The name, mailing address, telephone number, electronic mail address and the number of the contractor's license of the person responsible for all maintenance of the distributed generation system, if different from the solar installation company;

(d) The length of the term of the lease;

(e) The amount of the monthly payments due under the lease in the first year of operation;

(f) The amounts due at the signing for and at the completion of the installation of the distributed generation system;

(g) The estimated amount of the total payments due under the lease, including, without limitation, any incentives that are included in the estimated lease payments;

(h) A description of any one-time or recurring fees, including, without limitation, a description of the circumstances that trigger:

(1) Any late fees;

(2) Estimated fees for the removal of the distributed generation system;

(3) Fees for a notice of removal and refiling pursuant to the Uniform Commercial Code;

(4) Fees for connecting to the Internet; and

(5) Fees for not enrolling in a program in which payments are made through an electronic transfer of money cleared through an automated clearinghouse;

(i) The total number of payments to be made under the lease;

(j) The due date of any payment and the manner in which the consumer will receive an invoice for such payments;

(k) The rate of any payment increases and the date on which the first increase in the rate may occur, if applicable;

(l) Assumptions concerning the design of the distributed generation system, including, without limitation:

(1) The size of the distributed generation system;

(2) The estimated amount of production for the distributed generation system in the first year of operation;

(3) The estimated annual degradation to the distributed generation system; and

(4) As specified by the lease at the time of installation, whether or not an electric utility must credit a customer of the electric utility for any excess energy that is generated by the distributed ~~[energy]~~ generation system;

(m) A disclosure notifying the lessee of the intent of the lessor to file a fixture filing, as defined in NRS 104A.2309, on the distributed generation system;

(n) A disclosure notifying the lessee if maintenance and repairs of the distributed generation system are included in the lease;

(o) A disclosure describing any warranty for the repair of any damage to the roof of the property owned by the lessee in connection with the installation or removal of the distributed generation system;

(p) A disclosure describing:

(1) The transferability of the lease; and

(2) Any conditions on transferring the lease in connection with the lessee selling his or her property;

(q) A description of any guarantees of the performance of the distributed generation system;

(r) A description of the basis for any estimates of savings that were provided to the lessee, if applicable; and

(s) A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 12. *An agreement for the purchase of a distributed generation system must include a cover page that provides the following information in at least 10-point font:*

1. The size of the distributed generation system.

2. The length of the term of the warranty for the distributed generation system.

3. An estimated timeline for the installation of the distributed generation system.

4. A description of any warranties.

5. The total cost of the distributed generation system.

6. The estimated value of any portfolio energy credits and rebates of any incentives included in the calculation of the total cost of the distributed generation system.

7. The amounts due at the signing for and at the completion of the installation of the distributed generation system.

8. The estimated production of the distributed generation system in the first year of operation.

9. Notice of the existence of the Recovery Fund administered by the State Contractors' Board pursuant to NRS 624.470.

10. Notice that a person financially damaged by a licensed contractor who performs work on a residence may be eligible to recover certain financial damages from the Recovery Fund.

11. Notice that a host customer may file a complaint with the Public Utilities Commission of Nevada.

12. Contact information for the State Contractors' Board ~~[.]~~ and Public Utilities Commission of Nevada, including, without limitation, a telephone number.

Sec. 13. *An agreement for the purchase of a distributed generation system must include, without limitation, the following information in at least 10-point font:*

1. The name, mailing address, telephone number, electronic mail address and number of the contractor's license of the solar installation company.

2. The name, mailing address, telephone number and electronic mail address of:

(a) The purchaser of the distributed generation system; and

(b) The name, mailing address, telephone number and electronic mail address of the person responsible for all maintenance of the distributed generation system, if different from the solar installation company.

3. A description, which includes, without limitation, any assumptions, concerning the design and installation of the distributed generation system. Such a description must include, without limitation:

(a) The size of the distributed generation system;

(b) The estimated amount of production for the distributed generation system in the first year of operation; and

(c) The estimated annual degradation to the distributed generation system.

4. The total cost of the distributed generation system.

5. An estimated timeline for the installation of the distributed generation system.

6. A payment schedule, including, without limitation:

(a) The due dates for any deposit; and

(b) Any subsequent payments that are not to exceed the total system cost stated on the cover page pursuant to section 12 of this act.

7. The granting to the purchaser the right to rescind the agreement for a period ending not less than 3 business days after the agreement is signed.

8. A copy of the warranty for the distributed generation system.

9. A disclosure notifying the purchaser of the transferability of the obligations under the warranty to a subsequent purchaser.

10. The identification of any incentives included in the calculation of the total cost of the distributed generation system.

11. A description of any guarantee of the performance of the distributed generation system.

12. A signature block that is signed and dated by the purchaser of the distributed generation system and the solar installation company.

13. A description of the basis for any estimates of savings that were provided to the purchaser, if applicable.

14. A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 14. *1. An agreement for the purchase of a distributed generation system must include a disclosure that is not more than 3 pages in length and is in at least 10-point font.*

2. The disclosure described in subsection 1 must be separate from the cover page and agreement described in sections 12 and 13 of this act.

3. The disclosure described in subsection 1 must include, without limitation:

(a) The name, mailing address, telephone number and electronic mail address of the solar installation company;

(b) The name, mailing address, telephone number, electronic mail address and number of the contractor's license of the person who installed the distributed generation system, if different from the solar installation company;

(c) The name, mailing address, telephone number, electronic mail address and the number of the contractor's license of the person responsible for all maintenance of the distributed generation system, if different from the solar installation company;

(d) The purchase price of the distributed generation system;

(e) The payment schedule for the distributed generation system;

(f) The approximate start and completion dates for the installation of the distributed generation system;

(g) A disclosure notifying the purchaser of the responsible party for obtaining approval for connecting the distributed generation system to the electricity meter on the host customer's side;

(h) Assumptions concerning the design of the distributed generation system, including, without limitation:

(1) The size of the distributed generation system;

(2) The estimated amount of production for the distributed generation system in the first year of operation;

(3) The estimated annual degradation to the distributed generation system; and

(4) As specified by the agreement at the time of installation, whether or not an electric utility must credit a customer of the electric utility for any excess energy that is generated by the distributed ~~[energy]~~ generation system;

(i) A disclosure notifying the purchaser if maintenance and repairs of the distributed generation system are included in the purchase;

(j) A disclosure describing any warranty for the repair of any damage to the roof of the property owned by the purchaser in connection with the installation or removal of the distributed generation system;

(k) A description of any guarantees of the performance of the distributed generation system;

(l) A description of the basis for any estimates of savings that were provided to the purchaser, if applicable; and

(m) A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 15. *A power purchase agreement for the sale of the output of a distributed generation system must include a cover page that provides the following information in at least 10-point font:*

1. The rate of any increase in the payments to be made during the term of the agreement and, if applicable, the date of the first such increase.

2. An estimated timeline for the installation of the distributed generation system.

3. The rate of electricity per kilowatt-hour of electricity for the first year of the agreement.

4. The length of the term of the agreement.

5. The amounts due at the signing for and at the completion of the installation or any inspection of the distributed generation system.

6. The estimated production of the distributed generation system in the first year of operation.

7. A description of the options available at the end of the term of the agreement.

8. A description of any option to purchase the distributed generation system before the end of the term of the agreement.

9. Notice of the existence of the Recovery Fund administered by the State Contractors' Board pursuant to NRS 624.470.

10. Notice that a person financially damaged by a licensed contractor who performs work on a residence may be eligible to recover certain financial damages from the Recovery Fund.

11. Notice that a host customer may file a complaint with the Public Utilities Commission of Nevada.

12. Contact information for the State Contractors' Board ~~[.]~~ and the Public Utilities Commission of Nevada, including, without limitation, a telephone number.

Sec. 16. *A power purchase agreement for the sale of the output of a distributed generation system must include, without limitation, the following information in at least 10-point font:*

1. The name, mailing address, telephone number, electronic mail address and number of the contractor's license of the solar installation company.

2. The name, mailing address, telephone number and electronic mail address of:

(a) The provider of the distributed generation system; and

(b) The name, mailing address, telephone number and electronic mail address of the person responsible for all maintenance of the distributed generation system, if different from the solar installation company.

3. The length of the term of the agreement.

4. An estimated timeline for the installation of the distributed generation system.

5. The payments made during the first year of the agreement for the price of electricity, which includes, without limitation, the price per kilowatt-hour of electricity and the price per monthly system electrical output.

6. The estimated annual electrical output of the distributed generation system.

7. The rate of any increase in the payments to be made during the term of the agreement and, if applicable, the date of the first such increase.

8. A description of any obligation the solar installation company has regarding construction and repair of and insurance for the distributed generation system.

9. A description of any one-time or recurring fees, including, without limitation, a description of the circumstances that trigger any late fees.

10. A description of any:

(a) Taxes due at the commencement of the agreement; and

(b) Estimation of taxes known to be applicable during the term of the agreement, subject to a change in the state or local tax rate or tax structure.

11. A copy of the warranty for the distributed generation system.

12. A description of the ownership of any tax credits, tax rebates, tax incentives or portfolio energy credits in connection with the distributed generation system.

13. Any terms for renewal of the agreement.

14. A description of any option to purchase the distributed generation system before the end of the term of the agreement.

15. A description of all options available to the host customer in connection with the continuation, termination or transfer of the agreement in the event of the:

(a) Sale of the property to which the distributed generation system is affixed; or

(b) Death of the purchaser.

16. The granting to the purchaser of the right to rescind the agreement for a period ending not less than 3 business days after the agreement is signed.

17. A description of any restrictions that the agreement imposes on the modification or transfer of the property to which the distributed generation system is affixed.

18. A description of any guarantees of the performance of the distributed generation system.

19. A disclosure notifying the host customer of the transferability of the obligations under the warranty to a subsequent purchaser.

20. A signature block that is signed and dated by the purchaser and the solar installation company.

21. A statement describing the due dates of any payments.

Sec. 17. *1. A power purchase agreement for the sale of output of a distributed generation system must include a disclosure that is not more than 3 pages in length and is in at least 10-point font.*

2. The disclosure described in subsection 1 must be separate from the cover page and agreement described in sections 15 and 16 of this act.

3. The disclosure described in subsection 1 must include, without limitation:

(a) The name, mailing address, telephone number and electronic mail address of the solar installation company;

(b) The name, mailing address, telephone number, electronic mail address and number of the contractor's license of the person who installed the distributed generation system, if different from the solar installation company;

(c) The name, mailing address, telephone number, electronic mail address and the number of the contractor's license of the person responsible for all maintenance of the distributed generation system if different from the solar installation company;

(d) The payment schedule for the distributed generation system, including, without limitation, any payments that are due, if applicable, at:

(1) Signing for the distributed generation system;

(2) Commencement of installation of the distributed generation system; and

(3) Completion of installation of the distributed generation system;

(e) A description of any one-time or recurring fees, including, without limitation, a description of the circumstances that trigger:

(1) Any late fees;

(2) Estimated fees for the removal of the distributed generation system;

(3) Fees for a notice of removal and refiling pursuant to the Uniform Commercial Code;

(4) Fees for connecting to the Internet; and

(5) Fees for not enrolling in a program in which payments are made through an electronic transfer of money cleared through an automated clearinghouse;

(f) A statement that describes when payments are due;

(g) The rate of any payment increases and the date on which the first increase in the rate may occur, if applicable;

(h) Assumptions concerning the design of the distributed generation system, including, without limitation:

(1) The size of the distributed generation system;

(2) The estimated amount of production for the distributed generation system in the first year of operation;

(3) The estimated annual degradation to the distributed generation system; and

(4) As specified by the agreement at the time of installation, whether or not an electric utility must credit a customer of the electric utility for any excess energy that is generated by the distributed ~~[energy]~~ generation system;

(i) A disclosure notifying the purchaser of the intent of the owner of the distributed generation system to file a fixture filing, as defined in NRS 104A.2309, on the distributed generation system;

(j) A disclosure notifying the purchaser if maintenance and repairs of the distributed generation system are included in the agreement;

(k) A disclosure describing any warranty for the repair of any damage to the roof of the property owned by the purchaser in connection with the installation or removal of the distributed generation system;

(l) A disclosure describing the transferability of the distributed generation system in connection with the purchaser selling his or her property;

(m) A description of any guarantees of the performance of the distributed generation system;

(n) A description of the basis for any estimates of savings that were provided to the purchaser, if applicable; and

(o) A disclosure concerning the retention of any portfolio energy credits, if applicable.

Sec. 18. *If an agreement for the lease or purchase of a distributed generation system or if a power purchase agreement makes a written reference to the price of electricity that is provided by an electric utility, the agreement or power purchase agreement, as applicable, must also provide, in 12-point font, a disclosure in substantially the following form:*

> *Actual utility rates may go up or down and actual savings may vary. For further information regarding rates, you may contact your local utility or the Public Utilities Commission of Nevada.*

Sec. 19. *1. An agreement for the lease or purchase of a distributed generation system and a power purchase agreement must include an express warranty for the installation of the distributed generation system and the penetration into the roof by the distributed generation system. Such warranties must:*

(a) Be express and in writing; and

(b) Expire not earlier than 10 years after the installation of the distributed generation system.

2. An agreement for the lease of a distributed generation system and a power purchase agreement must include an express warranty that:

(a) Is in writing; and

(b) Does not expire earlier than 10 years after the installation of the distributed generation system.

3. An agreement for the purchase of a distributed generation system must include the following express warranties in writing for the component parts, including parts and labor, of the distributed generation system, either directly from the solar installation company or passed through from the manufacturer of the component parts:

(a) For collectors and storage units, not less than a 10-year warranty; and

(b) For inverters, not less than a 7-year warranty.

4. The provisions of this section that relate to a person who installs a distributed generation system do not apply to a person who installs a system on his or her own property.

Sec. 20. *1. A host customer may file a complaint concerning a solar installation company with the Public Utilities Commission of Nevada. Upon receipt of a complaint, the Commission may direct the host customer to the appropriate agency or person to resolve the complaint.*

2. The failure of a person to comply with sections 2 to 20, inclusive, of this act constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

~~*[2.]*~~ *3. A violation of any provision of sections 2 to 20, inclusive, of this act constitutes consumer fraud for the purposes of NRS 41.600.*

~~*[3.]*~~ *4. Any document described in sections 9 to 19, inclusive, of this act must be provided in:*

(a) English; or

(b) Spanish, if any person so requests.

Sec. 21. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 to 25, inclusive, of this act.

Sec. 22. (Deleted by amendment.)

Sec. 23. *Sections 22 to 25, inclusive, of this act may be cited as the Renewable Energy Bill of Rights.*

Sec. 24. *The Legislature hereby declares that each natural person who is a resident of this State has the right to:*

1. Generate, consume and export renewable energy and reduce his or her use of electricity that is obtained from the grid.

2. Use technology to store energy at his or her residence.

3. If the person generates renewable energy pursuant to subsection 1, or stores energy pursuant to subsection 2, or any combination thereof, be allowed to connect his or her system that generates renewable energy or stores energy, or any combination thereof, with the electricity meter on the customer's side that is provided by an electric utility or any other person named and defined in chapters 704, 704A and 704B of NRS:

(a) In a timely manner;

(b) ~~*[Without any unnecessary, burdensome or restrictive requirement;]*~~ *In accordance with requirements established by the electric utility to ensure the safety of utility workers; and*

(c) ~~*[Without the permission of an electric utility or any other person named and defined in chapters 704, 704A and 704B of NRS]*~~ *After providing written notice to the electric utility providing service in the service territory and installing a nomenclature plate on the electrical meter panel indicating that a system that generates renewable energy or stores energy, or any combination thereof, is present if the system:*

(1) Is not used for exporting renewable energy past the electric utility meter on the customer's side; and

(2) Meets ~~[reasonable]~~ all applicable state and local safety and electrical code requirements.

4. Fair credit for any energy exported to the grid.

5. Consumer protections in contracts for renewable energy pursuant to sections 2 to 20, inclusive, of this act.

6. Have his or her generation of renewable energy given priority in planning and acquisition of energy resources by an electric utility.

7. ~~[Remain]~~ Except as otherwise provided in section 27 or 28.3 of this act, remain within the existing broad rate class to which the resident would belong in the absence of a net metering system or a system that generates renewable energy or stores energy, or any combination thereof, without any fees or charges that are different than the fees and charges assessed to customers of the same rate class, regardless of the technologies on the customer's side of the electricity meter, including, without limitation, energy production, energy savings, energy consumption, energy storage or energy shifting technologies, provided that such technologies do not compromise the safety and reliability of the utility grid.

Sec. 25. (Deleted by amendment.)

Sec. 26. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 27 ~~[, 28 and]~~ to 29, inclusive, of this act.

Sec. 27. *1. An electric utility that primarily serves densely populated counties shall, on or before August 1, 2017, file with the Commission in a manner authorized by NRS 704.110 a request that the Commission establish an optional time-variant rate schedule for customers, including, without limitation, customer-generators who acquire an energy storage system.*

2. An electric utility that primarily serves less densely populated counties shall, on or before January 16, 2018, file with the Commission in a manner authorized by NRS 704.100 a request that the Commission establish an optional time-variant rate schedule for customers, including, without limitation, customer-generators who acquire an energy storage system.

3. A request filed pursuant to subsection 1 or 2 must be designed to expand and accelerate the development and use of energy storage systems in this State.

4. The Commission:

(a) Shall review each request filed pursuant to subsection 1 or 2;

(b) May approve each request that the Commission finds to be in the public interest; and

(c) Not later than March 15, 2018, shall issue a written order approving or denying each request filed pursuant to subsection 1 or 2.

5. As used in this section:

(a) "Electric utility that primarily serves densely populated counties" has the meaning ascribed to it in NRS 704.110.

(b) "Electric utility that primarily serves less densely populated counties" has the meaning ascribed to it in NRS 704.110.

(c) "Energy storage system" means any commercially available technology that is capable of retaining energy, storing the energy for a period of time and delivering the energy after storage, including, without limitation, by chemical, thermal or mechanical means.

(d) "Time-variant rate schedule" means a rate schedule that incorporates different rates for different times of day during which electricity may be used by a customer or fed back to the utility by the customer.

Sec. 28. ~~[1. A utility shall charge a net metering adjustment charge pursuant to this section to each customer-generator who, on or after the effective date of this section, accepts the offer of the utility for net metering.~~

~~2. The net metering adjustment charge required by this section applies to each kilowatt-hour of excess electricity governed by paragraph (c) of subsection 2 of NRS 704.775 that is generated by a customer-generator described in subsection 1.~~

~~3. The net metering adjustment charge on each kilowatt-hour of excess electricity described in subsection 2 must equal a percentage, as set forth in subsection 4, of the rate the customer-generator would have paid for a kilowatt-hour of electricity supplied by the utility at the time the customer-generator fed the kilowatt-hour of excess electricity back to the utility.~~

~~4. The percentage to be used to determine the net metering adjustment charge pursuant to subsection 3 on each kilowatt-hour of excess electricity must equal:~~

~~(a) Five percent, if the customer-generator accepts the offer of the utility for net metering:~~

~~(1) On or after the effective date of this section; and~~

~~(2) Before the date on which the Commission determines and posts to its Internet website its determination that the cumulative installed capacity of all net metering systems in this State equals or exceeds:~~

~~(I) Four hundred and eighty megawatts; and~~

~~(II) Six percent of the peak demand for electricity in this State for the previous calendar year, as determined by the Commission pursuant to subsection 6;~~

~~(b) Ten percent, if the customer-generator accepts the offer of the utility for net metering:~~

~~(1) On or after the date the Commission determines, pursuant to subsection 6, that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (a) have been met; and~~

~~(2) Before the date on which the Commission determines and posts to its Internet website its determination that the cumulative installed capacity of all net metering systems in this State equals or exceeds:~~

~~(I) Six hundred and forty megawatts; and~~

~~(II) Eight percent of the peak demand for electricity in this State for the previous calendar year, as determined by the Commission pursuant to subsection 6;~~

~~(c) Fifteen percent, if the customer-generator accepts the offer of the utility for net metering:~~

~~(1) On or after the date the Commission determines, pursuant to subsection 6, that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (b) have been met; and~~

~~(2) Before the date on which the Commission determines and posts to its Internet website its determination that the cumulative installed capacity of all net metering systems in this State equals or exceeds:~~

~~(I) Eight hundred megawatts; and~~

~~(II) Ten percent of the peak demand for electricity in this State for the previous calendar year, as determined by the Commission pursuant to subsection 6; or~~

~~(d) Twenty percent, if the customer-generator accepts the offer of the utility for net metering on or after the date the Commission determines, pursuant to subsection 6, that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (c) have been met.~~

~~5. Each utility shall:~~

~~(a) On or before January 15 of each calendar year, report to the Commission the peak demand for electricity experienced by that utility each day of the immediately preceding calendar year; and~~

~~(b) On or before the 15th day of each calendar month, post on its Internet website and report to the Commission the cumulative installed capacity of the net metering systems for which a customer-generator has accepted the offer of that utility as of the close of business of the utility on the last business day of the immediately preceding calendar month.~~

~~6. The Commission shall:~~

~~(a) After January 15 of each calendar year and on or before the immediately succeeding January 31 of each calendar year, determine and post on its Internet website the peak demand for electricity in this State for the immediately preceding calendar year, based upon the information the Commission most recently received pursuant to paragraph (a) of subsection 5;~~

~~(b) For the purposes of subsection 4, during January of each calendar year, until the Commission determines and posts on its Internet website pursuant to paragraph (a) a new peak demand for electricity in this State, deem the peak demand for electricity in this State to continue to be the same peak demand for electricity in this State as was applicable during the immediately preceding December;~~

~~(c) On the first business day of each calendar month, determine and post on its Internet website the cumulative installed capacity of all net metering systems in this State, based upon the information the Commission most recently received pursuant to paragraph (b) of subsection 5; and~~

~~(d) Based upon the peak demand for electricity in this State determined pursuant to paragraph (a) or (b), as applicable, and the cumulative installed~~

~~*capacity of all net metering systems in this State determined pursuant to paragraph (c):*~~

~~*(1) On the first business day of each calendar month before the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (a) of subsection 4 have been met, determine and post on its Internet website the remaining capacity of net metering systems which may be installed in this State before those conditions are met;*~~

~~*(2) On the first business day of the calendar month on which the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (a) of subsection 4 have been met, post on its Internet website:*~~

~~*(I) A statement indicating that those conditions have been met; and*~~

~~*(II) A statement indicating that all offers for net metering accepted on or after this business day are governed by paragraph (b), (c) or (d) of subsection 4, as applicable, and are not governed by paragraph (a) of subsection 4;*~~

~~*(3) On the first business day of each calendar month after the date described in subparagraph (2) and before the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (b) of subsection 4 have been met, determine and post on its Internet website the remaining capacity of net metering systems which may be installed in this State before those conditions are met;*~~

~~*(4) On the first business day of the calendar month on which the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (b) of subsection 4 have been met, post on its Internet website:*~~

~~*(I) A statement indicating that those conditions have been met; and*~~

~~*(II) A statement indicating that all offers for net metering accepted on or after this business day are governed by paragraph (c) or (d) of subsection 4, as applicable, and are not governed by paragraph (a) or (b) of subsection 4;*~~

~~*(5) On the first business day of each calendar month after the date described in subparagraph (4) and before the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (c) of subsection 4 have been met, determine and post on its Internet website the remaining capacity of net metering systems which may be installed in this State before those conditions are met; and*~~

~~*(6) On the first business day of the calendar month on which the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (c) of subsection 4 have been met, post on its Internet website:*~~

~~*(I) A statement indicating that those conditions have been met; and*~~

~~(II) A statement indicating that all offers for net metering accepted on or after this business day are governed by paragraph (d) of subsection 4 and are not governed by paragraph (a), (b) or (c) of subsection 4.~~

~~7. Except as otherwise provided in this subsection, a customer-generator shall be deemed to accept the offer of the utility for net metering on the date the customer-generator submits to the utility a complete application to install a net metering system within the service area of the utility. A customer-generator who accepted the offer of the utility for net metering before the effective date of this section may, but is not required to, submit a request to be treated for all purposes, including, without limitation, for the purposes of subsection 4, as a customer-generator who accepted the offer of the utility for net metering on the date of the request.]~~ (Deleted by amendment.)

Sec. 28.3. *1. If a customer-generator accepts the offer of a utility for net metering on or after the effective date of this act and the net metering system of the customer-generator has a capacity of not more than 25 kilowatts, the utility must, in accordance with this section, provide to the customer-generator a credit for each kilowatt-hour of excess electricity governed by paragraph (c) of subsection 2 of NRS 704.775 that is generated by the customer-generator.*

2. The credit for each kilowatt-hour of excess electricity described in subsection 1 must equal a percentage, as set forth in subsection 3, of the rate the customer-generator would have paid for a kilowatt-hour of electricity supplied by the utility at the time the customer-generator fed the kilowatt-hour of excess electricity back to the utility.

3. The percentage to be used to determine the credit pursuant to subsection 2 for each kilowatt-hour of excess electricity must equal:

(a) Ninety-five percent, if the customer-generator accepts the offer of the utility for net metering:

(1) On or after the effective date of this section; and

(2) Before the date on which the Commission determines and posts on its Internet website its determination that the cumulative installed capacity of all net metering systems in this State with a capacity of not more than 25 kilowatts for customer-generators who accepted the offer of the utility for net metering on or after the effective date of this section is equal to 80 megawatts;

(b) Eighty-eight percent, if the customer-generator accepts the offer of the utility for net metering:

(1) On or after the date that the Commission determines that the condition set forth in subparagraph (2) of paragraph (a) has been met; and

(2) Before the date on which the Commission determines and posts on its Internet website its determination that the cumulative installed capacity of all net metering systems in this State with a generating capacity of not more than 25 kilowatts for customer generators who accepted the offer of the

utility for net metering on or after the date described in subparagraph (1) is equal to 80 megawatts;

(c) Eighty-one percent, if the customer-generator accepts the offer of the utility for net metering:

(1) On or after the date that the Commission determines that the condition set forth in subparagraph (2) of paragraph (b) has been met; and

(2) Before the date on which the Commission determines and posts on its Internet website its determination that the cumulative installed capacity of all net metering systems in this State with a generating capacity of not more than 25 kilowatts for customer generators who accepted the offer of the utility for net metering on or after the date described in subparagraph (1) is equal to 80 megawatts;

(d) Seventy-five percent, if the customer-generator accepts the offer of the utility for net metering on or after the date that the Commission determines that the condition set forth in subparagraph (2) of paragraph (c) has been met.

4. On or before the 15th day of each calendar month, a utility shall post on its Internet website and report to the Commission the cumulative installed capacity of the net metering systems with a capacity of not more than 25 kilowatts for which a customer-generator has accepted the offer of that utility as of the close of business of the utility on the last business day of the immediately preceding calendar month.

5. Except as otherwise provided in this subsection, for the purposes of this section, a customer-generator shall be deemed to accept the offer of the utility for net metering on the date the customer-generator submits to the utility a complete application to install a net metering system within the service area of the utility. A customer-generator who accepted the offer of the utility for net metering before the effective date of this section and whose net metering system has a capacity of not more than 25 kilowatts may, but is not required to, submit a request to be treated for all purposes, including, without limitation, for the purposes of subsection 4, as a customer-generator who accepted the offer of the utility for net metering on the date of submitting the request.

Sec. 28.5. 1. The Commission shall open an investigatory docket to establish a methodology to determine the impact, if any, of net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, of this act on rates charged by a utility to its customers in this State.

2. On or before June 30, 2020, and biennially thereafter, the Commission shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report concerning the impact of net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, on rates charged by a utility to its customers in this State. The report must contain:

(a) Based on the methodology established pursuant to subsection 1, calculations of:

(1) Whether net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, of this act has an impact on rates charged by a utility to its customers in this State; and

(2) The amount of any increase or decrease in such rates as a result of net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, of this act;

(b) An explanation of the methodology used to make the calculations required by paragraph (a);

(c) The data used to make the calculations required by paragraph (a), including, without limitation, avoided generation capacity, avoided transmission and generation capacity and avoided system upgrades;

(d) A comparison of the impact on rates of net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, of this act and the impact on rates of capital expenditures by the utility;

(e) A description of the process for obtaining input from stakeholders in developing the methodology required by subsection 1; and

(f) A summary of comments on the written report from interested persons.

Sec. 28.7. If the Legislature provides by law for an open, competitive retail electric energy market for all electricity customers within a service territory:

1. Each person providing electric service in that service territory shall be deemed to be a utility for the purposes of NRS 704.766 to 704.775, inclusive, and sections 27 to 29, inclusive, of this act;

2. The Commission or any other agency designated by law to regulate electric service in this State shall prohibit any person providing electric service in the service territory from impeding or interrupting the operation or performance or otherwise restrict the output of an existing net metering system; and

3. A customer-generator must be required to pay any costs charged to other customers of the person providing electric service to the customer-generator in the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system.

Sec. 29. ~~[*Within 6 months after the date the Commission determines that the conditions set forth in sub-subparagraphs (I) and (II) of subparagraph (2) of paragraph (c) of subsection 4 of section 28 of this act have been met, the Legislative Committee on Energy created by NRS 218E.805 shall, in consultation with the Commission, make recommendations to the Legislature concerning:*~~

~~*1. Whether the net metering adjustment charge required by section 28 of this act is adequate to offset any known impacts of customer generators on the electricity grid, the system for distribution of electricity and the rates for electricity. The Legislative Committee on Energy, in consultation with the Commission, shall take into account any benefits to the electricity grid and*~~

~~*any benefits to society that it determines are caused by the net metering systems of customer-generators.*~~

~~*2. Any revision to the net metering adjustment charge that is determined by the Legislative Committee on Energy to be appropriate.*~~

~~*3. Whether a different rate design or different compensation for excess electricity that is fed back to the utility by customer-generators would increase any benefits caused by the net metering systems of customer-generators to the electricity grid and to all customers of utilities in this State.*~~

~~*4. Any revision to the rate design or the compensation for excess electricity that is fed back to the utility by customer-generators that the Legislative Committee on Energy determines to be appropriate.]*~~ (Deleted by amendment.)

Sec. 30. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, *and sections 27 ~~[, 28 and]~~ to 29 , inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 704.7675 to 704.772, inclusive, have the meanings ascribed to them in those sections.

Sec. 31. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering ~~[:~~

~~(a) In]~~ *in* accordance with the provisions of ~~[this section, NRS 704.774 and 704.775,]~~ *NRS 704.766 to 704.775, inclusive, and sections 27 ~~[, 28 and]~~ to 29, inclusive, of this act* to the customer-generators operating within its service area . ~~[until the date on which the cumulative capacity of all net metering systems for which all utilities in this State have accepted or approved completed applications for net metering is equal to 235 megawatts.~~

~~(b) After the date on which the cumulative capacity requirement described in paragraph (a) is met, in accordance with a tariff filed by the utility and approved by the Commission pursuant to NRS 704.7735.]~~

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Except as otherwise provided in subsection ~~[5,]~~ *7* , ~~*[and section 28 of this act,]*~~ shall not charge ~~[a]~~ *the* customer-generator any fee or charge that ~~[would increase the customer-generator's minimum monthly charge to an amount greater]~~ *is different* than that ~~[of]~~ *charged to* other customers of the utility in the ~~[same]~~ rate class ~~[as]~~ *to which* the customer-generator ~~[.]~~ *would belong if the customer-generator did not have a net metering system.*

(d) Shall not reduce the minimum monthly charge of the customer-generator based on the electricity generated by the customer-generator and fed back to the utility.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph ~~[(c) and]~~ *(d)* ~~*[,]*~~ *and* subsection ~~[5, may]~~ *7* *,* ~~*[and section 28 of this act,]*~~ *shall not* charge the customer-generator any ~~[applicable]~~ fee or charge *that is different than that* charged to other customers of the utility in the ~~[same]~~ rate class ~~[as]~~ *to which* the customer-generator ~~[,]~~ *would belong if the customer-generator did not have a net metering system,* including, without limitation, customer, demand and facility charges.

(c) *Shall not reduce the minimum monthly charge of the customer-generator based on the electricity generated by the customer-generator and fed back to the utility.*

(d) Shall not charge the customer-generator any standby charge.

~~[➥]~~

4. At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by ~~[this]~~ subsection *3* to pay the entire cost of the installation or upgrade of the portion of the net metering system.

~~[4.]~~ *5. Except as otherwise provided in subsections 2, 3 and 6 and section* ~~*[28]*~~ *28.3 of this act, the utility shall not for any purpose assign a customer-generator to a rate class other than the rate class to which the customer-generator would belong if the customer-generator did not have a net metering system, including, without limitation, for the purpose of any fee or charge.*

6. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

➥ the net metering system ceases to be eligible to participate in net metering.

~~[5.]~~ *7.* A utility shall assess against a customer-generator:

(a) If applicable, the universal energy charge imposed pursuant to NRS 702.160; *and*

(b) Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the customer-generator . ~~[; and~~

~~(c) The charges or rates, if any, which the Commission determines must be assessed against the customer-generator pursuant to any tariff submitted to and approved by the Commission pursuant to NRS 704.7735.]~~

➥ For any such charges calculated on the basis of a kilowatt-hour rate, the customer-generator must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.

~~[6.]~~ *8. The Commission and the utility must allow a customer-generator who accepts the offer of the utility for net metering to continue net metering pursuant to NRS 704.766 to 704.775, inclusive, and sections 27 ~~[, 28 and]~~ to 29 , inclusive, of this act at the location at which the net metering system is originally installed ~~[for the life of the net metering system that is originally installed or]~~ for 20 years . ~~[, whichever is longer.]~~ For the purposes of this subsection, "to continue net metering" includes, without limitation:*

(a) Retaining the percentage set forth in subsection ~~[4]~~ 3 of section ~~[28]~~ 28.3 of this act to be used to determine the ~~[net metering adjustment charge]~~ credit for electricity governed by paragraph (c) of subsection 2 of NRS 704.775, which is applicable to the customer-generator; and

(b) Replacing the originally installed net metering system, as needed, at any time before 20 years after the date of the installation of the originally installed net metering system.

9. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive ~~[.]~~ *, and sections 27 ~~[, 28 and]~~ to 29 , inclusive, of this act.*

Sec. 31.5. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) ~~[If]~~ *Except as otherwise provided in section 28.3 of this act, if* the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to

NRS 704.7821 and 704.78213 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 32. ~~[1. For the purposes of compliance with section 28 of this act, from the effective date of section 28 of this act until the date in January 2018 on which the Public Utilities Commission of Nevada first determines the peak demand for electricity in this State pursuant to paragraph (a) of subsection 6 of section 28 of this act, the Commission shall deem the peak demand for electricity in this State for the previous calendar year to be 8,000 megawatts.~~

~~2. For the purposes of compliance with paragraph (a) of subsection 5 of section 28 of this act in January 2018, a utility to which section 28 of this act applies may, on or before January 15, 2018, report the peak demand for electricity experienced by the utility each day of calendar year 2017 beginning on the effective date of section 28 of this act and ending on December 31, 2017.]~~ (Deleted by amendment.)

Sec. 32.5. 1. Not later than 45 days after the effective date of this act, a utility shall file with the Public Utilities Commission of Nevada any amendments to its tariff or tariffs that are necessary to comply with the provisions of section 28.3 of this act.

2. As used in this section, "utility" has the meaning ascribed to it in NRS 704.772.

Sec. 32.7. The provisions of subsection 1 of NRS 318D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 33. NRS 704.7735 is hereby repealed.

Sec. 34. 1. This section and sections ~~[26]~~ 25 to 28.5, inclusive, and 29 to 33, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 24, inclusive, of this act become effective on September 1, 2017.

3. If the Legislature provides by law for an open, competitive retail electric energy market for all electricity customers within a service territory, including, without limitation, if the Legislature does so as a result of the proposed state constitutional amendment known as the Energy Choice Initiative, section 28.7 of this act becomes effective with regard to the customers within that service territory on the date on which such customers have the right to choose the provider of their electric utility service pursuant to that law. As used in this section, "electricity customer" means every person, business, association of persons or businesses, state agency, political subdivision of this State or any other entity in this State that is a customer of a provider of electric service.

TEXT OF REPEALED SECTION

704.7735 Utility required to offer net metering in accordance with tariff after certain cumulative capacity requirements are met.

1. Except as otherwise provided in subsection 3, each utility shall, in accordance with a tariff filed by the utility and approved by the Commission, offer net metering to customer-generators who submit applications to install net metering systems within its service territory after the date on which the cumulative capacity requirement described in paragraph (a) of subsection 1 of NRS 704.773 is met.

2. For the purposes of evaluating and approving any tariff filed with the Commission pursuant to subsection 1 and otherwise carrying out the provisions of this section, the Commission:

(a) May establish one or more rate classes for customer-generators.

(b) May establish terms and conditions for the participation by customer-generators in net metering, including, without limitation, limitations on enrollment in net metering which the Commission determines are appropriate to further the public interest.

(c) May close to new customer-generators a tariff filed pursuant to subsection 1 and approved by the Commission if the Commission determines that closing the tariff to new customer-generators is in the public interest.

(d) May authorize a utility to establish just and reasonable rates and charges to avoid, reduce or eliminate an unreasonable shifting of costs from customer-generators to other customers of the utility.

(e) Shall not approve a tariff filed pursuant to subsection 1 or authorize any rates or charges for net metering that unreasonably shift costs from customer-generators to other customers of the utility.

3. In approving any tariff submitted pursuant to subsection 1, the Commission shall determine whether and the extent to which any tariff approved or rates or charges authorized pursuant to this section are applicable to customer-generators who, on or before the date on which the cumulative capacity requirement described in paragraph (a) of subsection 1 of NRS 704.773 is met, submitted a complete application to install a net metering system within the service territory of a utility.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Amendment No. 1100 to Assembly Bill No. 405 adds section 1.4 to the bill which provides the PUC may authorize, at the request of an electricity utility under certain circumstances; revises the legislative declaration; deletes section 2.1 of the bill; deletes section 2.9 of the bill; clarifies those qualified energy-storage systems to be used for compliance with the portfolio standards; prohibits the PUC from rejecting any portion of the resource plan; revises the portfolio standard for calendar year 2018 and for each calendar year thereafter to the calendar year 2030; deletes section 4.1 of the bill which revises provisions governing the use of geothermal energy to comply with the portfolio standards, and adds Senators Atkinson, Ford, Manendo and Spearman as joint sponsors.

Amendment adopted.

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

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1105.

SUMMARY—Revises provisions relating to corrections. (BDR 16-1058)

AN ACT relating to corrections; requiring the coordination ~~[and oversight]~~ of certain care for a prisoner to be arranged by a sheriff, chief of police or town marshal in certain counties and the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes upon sheriffs, chiefs of police and town marshals certain duties relating to the control and care of prisoners in their custody. (NRS 211.140) This bill requires, in a county whose population is 700,000 or more (currently Clark County), a sheriff, chief of police or town marshal ~~[to arrange for, and]~~ , in collaboration with the Department of Health and Human Services , ~~[to provide,]~~ for the purpose of maintaining continuity of care, to arrange for the coordination ~~[and oversight]~~ of certain care provided to a prisoner while the prisoner is in custody . ~~[and]~~ This bill requires the Department to arrange for the coordination of such care after the prisoner is released from custody. This bill also requires each such sheriff and the Director of the Department to report to the Legislative Committee on Health Care regarding such collaboration and coordination . ~~[and oversight.]~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 211.140 is hereby amended to read as follows:

211.140 1. The sheriff of each county has charge and control over all prisoners committed to his or her care in the respective county jails, and the chiefs of police and town marshals in the several cities and towns throughout this State have charge and control over all prisoners committed to their respective city and town jails and detention facilities.

2. A court shall not, at the request of any prisoner in a county, city or town jail, issue an order which affects the conditions of confinement of the prisoner

unless, except as otherwise provided in this subsection, the court provides the sheriff, chief of police or town marshal having control over the prisoner with:

(a) Sufficient prior notice of the court's intention to enter the order. Notice by the court is not necessary if the prisoner has filed an action with the court challenging his or her conditions of confinement and has served a copy of the action on the sheriff, chief of police or town marshal.

(b) An opportunity to be heard on the issue.

➥ As used in this subsection, "conditions of confinement" includes, but is not limited to, a prisoner's access to the law library, privileges regarding visitation and the use of the telephone, the type of meals provided to the

prisoner and the provision of medical care in situations which are not emergencies.

3. The sheriffs, chiefs of police and town marshals shall see that the prisoners under their care are kept at labor for reasonable amounts of time within the jail or detention facility, on public works in the county, city or town, or as part of a program of release for work established pursuant to NRS 211.120 or 211.171 to 211.200, inclusive.

4. The sheriff, chief of police or town marshal shall arrange for the administration of medical care required by prisoners while in his or her custody. The county, city or town shall pay the cost of appropriate medical:

(a) Treatment provided to a prisoner while in custody for injuries incurred by a prisoner while the prisoner is in custody and for injuries incurred during the prisoner's arrest for commission of a public offense if the prisoner is not convicted of that offense;

(b) Treatment provided to a prisoner while in custody for any infectious, contagious or communicable disease which the prisoner contracts while the prisoner is in custody; and

(c) Examinations required by law or by court order conducted while the prisoner is in custody unless the order otherwise provides.

5. A prisoner shall pay the cost of medical treatment for:

(a) Injuries incurred by the prisoner during his or her commission of a public offense or for injuries incurred during his or her arrest for commission of a public offense if the prisoner is convicted of that offense;

(b) Injuries or illnesses which existed before the prisoner was taken into custody;

(c) Self-inflicted injuries; and

(d) Except treatment provided pursuant to subsection 4, any other injury or illness incurred by the prisoner.

6. A medical facility furnishing treatment pursuant to subsection 5 shall attempt to collect the cost of the treatment from the prisoner or the prisoner's insurance carrier. If the facility is unable to collect the cost and certifies to the appropriate board of county commissioners that it is unable to collect the cost of the medical treatment, the board of county commissioners shall pay the cost of the medical treatment.

7. A sheriff, chief of police or town marshal who arranges for the administration of medical care pursuant to this section may attempt to collect from the prisoner or the insurance carrier of the prisoner the cost of arranging for the administration of medical care including the cost of any transportation of the prisoner for the purpose of medical care. The prisoner shall obey the requests of, and fully cooperate with the sheriff, chief of police or town marshal in collecting the costs from the prisoner or the prisoner's insurance carrier.

8. In a county whose population is 700,000 or more ~~[,]~~ *:*

(a) While a prisoner is in custody, a sheriff, chief of police or town marshal ~~*[shall arrange for, and]*~~ *, in collaboration with the Department of*

Health and Human Services and the various divisions thereof , ~~[shall provide,]~~ for the purpose of maintaining continuity of care, shall arrange for the coordination ~~[and oversight]~~ of the care for mental health and substance abuse treatment provided to ~~[a]~~ the prisoner by ~~[:~~

~~(a) All]~~ all providers of such care in the county, city or town jail or detention facility . ~~[while the prisoner is in custody; and~~

~~(b) All providers of such care after the]~~

(b) After a prisoner is released from custody ~~[.~~

~~"]~~ :

(1) The Department and the various divisions thereof shall arrange for the coordination of the care for mental health and substance abuse treatment provided to the prisoner.

(2) The sheriff, chief of police or town marshal is no longer responsible for arranging the coordination of such care.

9. Each ~~[such]~~ sheriff ~~[,]~~ described in subsection 8, or his or her representative, and the Director of the Department of Health and Human Services, or his or her representative, shall, at ~~[each meeting]~~ the request of the Legislative Committee on Health Care, appear before the Committee during the legislative interim to report on the collaboration and coordination ~~[and oversight]~~ provided pursuant to ~~[this]~~ subsection ~~[.]~~ 8.

10. Mental health and substance abuse treatment provided pursuant to subsection 8 may include any medication that has been:

(a) Approved by the United States Food and Drug Administration; and

(b) Prescribed by a treating physician as medically necessary for use by the prisoner to address mental health or substance abuse issues.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective on July 1, 2017.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 1105 to Assembly Bill No. 421 revises language concerning mental-health care and substance-abuse treatment for prisoners in Clark County to provide that a sheriff, chief of police or town marshal must collaborate with the Department of Health and Human Services and various providers in the county to arrange for the coordination of mental-health care and substance-abuse treatment provided to a prisoner both while in custody and after release; clarifies that mental-health care and substance-abuse treatment may include any medication approved by the United States Food and Drug Administration and prescribed by a treating physician as medically necessary.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 391.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1097.

SUMMARY—Provides for awards of scholarships by community colleges in the Nevada System of Higher Education. (BDR 34-815)

AN ACT relating to community colleges; requiring community colleges in the Nevada System of Higher Education to award a scholarship to certain students who are enrolled in such colleges; requiring that a plan to improve the achievement of pupils include strategies to provide certain persons with information concerning the availability of such scholarships; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Community colleges in this State are a part of the Nevada System of Higher Education and are administered under the direction of the Board of Regents of the University of Nevada. (NRS 396.020) Section 9 of this bill requires each community college in the System to award Nevada Promise Scholarships and allow a student to appeal adverse decisions relating to such scholarships. Section 8 of this bill establishes the Nevada Promise Scholarship Account in the State General Fund to pay for the scholarships.

Sections 9 and 10 of this bill require a community college to perform certain duties, including holding introductory meetings for scholarship applicants and establishing a mentoring program, or to enter into an agreement with a nonprofit organization or governmental entity to perform those duties. Section 11 of this bill sets forth the requirements to serve as a volunteer mentor in such a mentoring program. Sections 12 and 13 of this bill set forth the requirements for a student to be eligible to receive or renew a Nevada Promise Scholarship. The requirements to receive or renew a scholarship include a requirement that an applicant complete community service. Section 14 of this bill: (1) provides that an applicant who knowingly submits false information to a community college is ineligible to receive a scholarship; and (2) prescribes additional requirements governing deadlines and community service.

Section 16 of this bill prescribes: (1) the process for determining the eligibility of scholarship applicants and awarding scholarships; and (2) the amount of a scholarship for a recipient. If there is insufficient money available to award a full scholarship to all eligible students, section 16 sets forth the manner in which money in the Account will be disbursed. Section 16 additionally requires , under such circumstances, the State Treasurer to notify the Legislature and the board of trustees of each school district and the governing body of each charter school, who are then required to notify pupils who are on schedule to graduate from a public high school of that fact. Section 17 of this bill requires the Board of Regents to annually review all scholarships awarded for the previous year and report certain

information to the Legislature. Section 17 also: (1) requires a community college to maintain certain records; and (2) authorizes the Board of Regents and the State Treasurer to audit a community college or a nonprofit organization or governmental entity with which a community college has entered into an agreement to carry out certain duties relating to the scholarship program. Section 18.3 of this bill makes an appropriation for the purpose of awarding Nevada Promise Scholarships.

Existing law requires the plan to improve the achievement of pupils adopted by the State Board of Education to include strategies designed to provide to pupils enrolled in middle school, junior high school and high school and certain other persons information concerning the availability of Governor Guinn Millennium Scholarships. (NRS 385.112) Section 1 of this bill requires that the plan also include strategies to provide such persons with information concerning the availability of Nevada Promise Scholarships.

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

Section 1. NRS 385.112 is hereby amended to read as follows:

385.112 A plan to improve the achievement of pupils enrolled in public schools in this State prepared pursuant to NRS 385.111 must include:

1. A review and analysis of the data upon which the report required pursuant to NRS 385A.400 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

2. The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

3. Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

4. Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(a) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(1) The curriculum appropriate to improve achievement;

(2) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 390.105 and 390.600 and the college and career readiness assessment administered pursuant to NRS 390.610, including, without limitation, the manner in which remediation will be provided to pupils who require remediation based on the results of an examination administered pursuant to NRS 390.600 and 390.610; and

(3) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in the statewide system of accountability for public schools;

(b) Improve the literacy skills of pupils;

(c) Improve the development of English language skills and academic achievement of pupils who are limited English proficient;

(d) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(e) Integrate technology into the instructional and administrative programs of the school districts;

(f) Manage effectively the discipline of pupils; and

(g) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

5. Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(a) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(b) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.945, inclusive ~~[,]~~ *, and Nevada Promise Scholarships pursuant to sections 3 to 17, inclusive, of this act;* and

(c) The need for a pupil to make informed decisions about his or her curriculum in middle school, junior high school and high school in preparation for success after graduation.

6. An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

7. A timeline for carrying out the plan, including, without limitation:

(a) The rate of improvement and progress which must be attained annually in meeting the goals and benchmarks established by the State Board pursuant to NRS 385.113; and

(b) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

8. For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

9. Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this subsection. If a statewide program is not available, the State Board shall

use the Department's own financial analysis program in complying with this subsection.

10. Based upon the reallocation of resources set forth in subsection 9, the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

11. A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

12. A 5-year strategic plan which identifies the recurring issues in improving the achievement and proficiency of pupils in this State and which establishes strategic goals to address those issues. The 5-year strategic plan must be:

(a) Based upon the data from previous years which is collected by the Department for the plan developed pursuant to NRS 385.111; and

(b) Designed to track the progress made in achieving the strategic goals established by the Department.

13. Any additional plans addressing the achievement and proficiency of pupils adopted by the Department.

Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 17, inclusive, of this act.

Sec. 3. *As used in sections 3 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 7.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Gift aid" means ~~[any grant or scholarship received by a student, including, without limitation,]~~ a federal Pell grant, a Federal Supplemental Educational Opportunity Grant, a Governor Guinn Millennium Scholarship awarded pursuant to NRS 396.911 to 396.945, inclusive, or a grant awarded under the Silver State Opportunity Grant Program pursuant to NRS 396.950 to 396.960, inclusive, ~~[or a scholarship from a community college or any other public or private source, except that the term does not include a grant or scholarship that may be used for purposes other than paying the registration fee and other mandatory fees charged to the student by the community college.]~~ received by a student.*

Sec. 5. *"Local partnering organization" means a nonprofit organization or governmental entity with which a community college enters into an agreement pursuant to section 9 of this act.*

Sec. 6. *"Nevada Promise Scholarship" means a scholarship awarded by a community college pursuant to section 16 of this act.*

Sec. 7. *"Scholarship recipient" means the recipient of a Nevada Promise Scholarship.*

Sec. 7.5. *"School year" means consecutive fall and spring semesters and does not include the summer semester.*

Sec. 8. *1. The Nevada Promise Scholarship Account is hereby created in the State General Fund. The Account must be administered by the State Treasurer.*

2. The interest and income earned on:

(a) The money in the Account, after deducting any applicable charges; and

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

➥ must be credited to the Account.

3. Any money remaining in the Account at the end of a fiscal year, including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

4. The State Treasurer may accept gifts and grants of money from any source for deposit in the Account.

5. The money in the Account may only be used to distribute money to community colleges for the purpose of awarding Nevada Promise Scholarships to students who are eligible to receive or renew such scholarships under the provisions of sections 12 and 13 of this act.

Sec. 9. *Each community college shall:*

1. Conduct the activities required by section 10 of this act or enter into an agreement with one or more nonprofit organizations or governmental entities to conduct those activities.

2. Allow an applicant or scholarship recipient to appeal any adverse decision concerning his or her eligibility to receive or renew a Nevada Promise Scholarship under the provisions of section 12 or 13 of this act or request a waiver, for good cause, of the requirements of paragraph (c) of subsection 2 of section 13 of this act concerning continuous enrollment. If the community college has established a process by which a student may appeal other decisions, the community college must use the same process for appealing an adverse decision described in this subsection.

Sec. 10. *Each community college or local partnering organization shall:*

1. Before December 31 of each year, hold at least one training meeting for each mentor who will participate in the mentoring program established pursuant to subsection 5. The meeting must include instruction concerning Nevada Promise Scholarships awarded pursuant to sections 3 to 17, inclusive, of this act, appropriate relationships between students and mentors, opportunities for students to obtain financial aid, the Free Application for Federal Student Aid, the college application process and the requirements of section 12 of this act.

2. Before December 31 of each year, hold at least one training meeting for students who plan to apply or have applied for a Nevada Promise Scholarship for the immediately following school year. The meeting must include instruction concerning Nevada Promise Scholarships awarded

pursuant to sections 3 to 17, inclusive, of this act, appropriate relationships between students and mentors, opportunities for students to obtain financial aid, the Free Application for Federal Student Aid, the college application process and the requirements of section 12 of this act.

3. Before May 1 of each year, hold at least one training meeting for students who have applied for a Nevada Promise Scholarship for the immediately following school year. The meeting must include instruction concerning orientation at the community college, making the transition from high school to college, the requirements of sections 12 and 13 of this act concerning community service and the manner in which a student will be informed of important information relating to his or her scholarship, including, without limitation, whether the student qualifies for a Nevada Promise Scholarship and the amount of the scholarship awarded.

4. If a scholarship applicant is unable to attend a meeting held pursuant to subsection 2 or 3 because he or she is required to attend a school-sponsored activity or religious observance or for a documented medical reason, arrange for the applicant to receive the training provided in that meeting as soon as practicable and before the deadline prescribed by subsection 2 or 3, as applicable. If the scholarship applicant is unable to receive the training before the applicable deadline, the applicant must not receive a Nevada Promise Scholarship.

5. Establish a mentoring program for scholarship applicants and scholarship recipients that maintains a ratio of at least one mentor for every 10 applicants or recipients and, before December 31 of each year, assign a mentor who meets the requirements of section 11 of this act to each applicant and recipient. If a person serving as a mentor resigns from the mentoring program or cannot serve as a mentor for at least one semester, the community college or local partnering organization shall assign another mentor to each scholarship applicant or scholarship recipient for whom the person served as a mentor. The community college or local partnering organization shall not assign a person to serve as a mentor to a scholarship applicant or scholarship recipient:

(a) Whom the person employs; or

(b) To whom the person is related by consanguinity or affinity within the third degree.

6. Maintain a list of community service opportunities available to scholarship applicants and scholarship recipients to allow them to satisfy the requirements of sections 12 and 13 of this act concerning the completion of community service.

7. Post the list maintained pursuant to subsection 6 on a publicly available Internet website maintained by the community college or local partnering organization.

Sec. 11. *1. A person who serves as a mentor in a mentoring program established pursuant to section 10 of this act may not be compensated. A mentor may be an employee of the community college or local partnering*

organization, but must not receive additional compensation for serving as a mentor.

2. Each person who serves as a mentor in a mentoring program established pursuant to section 10 of this act and is not employed by the community college:

(a) Must be at least 21 years of age.

(b) Shall, before serving as a mentor, submit to the community college the information requested by the community college and written permission authorizing the community college to use the information to obtain a report on the criminal history of the prospective mentor. If the community college has entered into an agreement with a local partnering organization pursuant to section 9 of this act, the community college shall transmit the report on the criminal history of the prospective mentor to the local partnering organization.

3. A community college or local partnering organization shall not allow a person to serve as a mentor if the community college receives information pursuant to subsection 2 that the person has entered a plea of guilty, guilty but mentally ill or nolo contendere to, been found guilty or guilty but mentally ill of, or been convicted of, in this State or any other jurisdiction, a felony.

Sec. 12. *A student is eligible to receive a Nevada Promise Scholarship for the first school year in which the student is enrolled at a community college if the student:*

1. Is a bona fide resident of this State, as construed in NRS 396.540, is less than 20 years of age and has not previously been awarded an associate's degree or bachelor's degree.

2. Has obtained:

(a) A high school diploma awarded by a public or private high school located in this State or public high school that is located in a county that borders this State and accepts pupils who are residents of this State; or

(b) A general equivalency diploma or equivalent document.

3. Is not in default on any federal student loan and does not owe a refund to any federal program to provide aid to students.

4. Before November 1 immediately preceding the school year for which the student wishes to receive a Nevada Promise Scholarship, submits an application in the form prescribed by the community college.

5. On or before April 1 immediately preceding the school year for which the student wishes to receive a Nevada Promise Scholarship, completes the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

6. Receives an Expected Family Contribution from the United States Department of Education.

7. Attends at least one training meeting held by a community college or local partnering organization pursuant to subsection 2 of section 10 of this act and at least one such meeting held pursuant to subsection 3 of that

section, or arranges to receive the training provided in those meetings at an alternate time pursuant to subsection 4 of that section.

8. Before May 1 immediately preceding the school year for which the student wishes to receive a Nevada Promise Scholarship:

(a) Has met at least once with the mentor assigned to the student pursuant to section 10 of this act.

(b) Completes at least ~~[8]~~ 20 hours of community service that meets the requirements of section 14 of this act and submits to the community college verification of the completion of that community service. The verification must include:

(1) A description of the community service performed;

(2) The dates on which the service was performed and the number of hours of service performed on each date;

(3) The name of the organization for which the service was performed; and

(4) The name of a person employed by the organization whom the community college may contact to verify the information contained in the verification.

(c) Submits all information deemed necessary by the community college to determine the applicant's eligibility for gift aid.

9. Is enrolled in or plans to enroll in at least 12 semester credit hours in an associate's degree program, a bachelor's degree program or a certificate of achievement program at a community college for each semester of the school year immediately following the school year in which the student was awarded a high school diploma or a general equivalency diploma or equivalent document.

Sec. 13. *1. A Nevada Promise Scholarship:*

(a) Must be renewed for each school year for which the scholarship recipient wishes to receive a scholarship; and

(b) May be renewed for a total of 2 school years, not including the initial school year.

2. A scholarship recipient is eligible to renew a Nevada Promise Scholarship if the scholarship recipient:

(a) Has not been awarded an associate's degree or bachelor's degree.

(b) Except as otherwise provided in this paragraph, is enrolled in or plans to enroll in at least 12 semester credit hours in an associate's degree program, a bachelor's degree program or a certificate of achievement program at a community college for each semester of the school year for which the student wishes to renew the scholarship. A student who is on schedule to graduate at:

(1) The end of a semester may enroll in the number of semester credit hours required to graduate.

(2) The end of the fall semester is not required to enroll in credit hours for the spring semester.

(c) Has enrolled in and successfully completed at least 12 semester credit hours in an associate's degree program, a bachelor's degree program or a certificate of achievement program at a community college for each fall and spring semester beginning with the first semester for which the student received a scholarship, unless the student has received a waiver pursuant to section 9 of this act.

(d) Maintains at least a ~~[2.0]~~ 2.5 grade point average, on a 4.0 grading scale, or the equivalent of a ~~[2.0]~~ 2.5 grade point average if a different grading scale is used, for all classes for which the student has been awarded credit at a community college, or makes adequate academic progress, as determined by the community college.

(e) Completes the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090 on or before April 1 immediately preceding the school year for which the student wishes to renew the scholarship and receives an Expected Family Contribution from the United States Department of Education.

(f) Is not in default on any federal student loan and does not owe a refund to any federal program to provide aid to students.

(g) On or before May 1 immediately preceding the school year for which the student wishes to renew the scholarship:

(1) Completes ~~[16]~~ 20 hours of community service that meets the requirements of section 14 of this act and submits to the community college verification of the completion of that community service. The verification must include:

(I) A description of the community service performed;

(II) The dates on which the service was performed and the number of hours of service performed on each date;

(III) The name of the organization for which the service was performed; and

(IV) The name of a person employed by the organization whom the community college may contact to verify the information contained in the verification.

(2) Meets at least twice with the mentor assigned to the student pursuant to section 10 of this act.

(3) Submits to the community college all documentation deemed necessary by the community college to determine the applicant's eligibility for financial aid.

(h) Before November 1 immediately preceding the school year for which the student wishes to renew the scholarship, submits an application in the form prescribed by the community college and all information deemed necessary by the community college to determine the applicant's eligibility for gift aid.

Sec. 14. *1. An applicant who knowingly submits false or misleading information to a community college or local partnering organization*

pursuant to section 12 or 13 of this act is ineligible to receive a Nevada Promise Scholarship.

2. If a deadline prescribed by section 12 or 13 of this act falls on a Saturday, Sunday or legal holiday, the deadline is the next business day.

3. Community service performed to satisfy the requirements of section 12 or 13 of this act must not include religious proselytizing or service for which the student receives any type of compensation or which directly benefits a member of the family of the applicant or student, as applicable.

Sec. 15. (Deleted by amendment.)

Sec. 16. *1. Each community college shall award Nevada Promise Scholarships in accordance with this section to students who are enrolled at the community college and are eligible to receive or renew such scholarships under the provisions of sections 12 and 13 of this act.*

2. On or before July 1 of each year, a community college shall:

(a) Review all timely applications received pursuant to sections 12 and 13 of this act to determine the eligibility of each applicant for a Nevada Promise Scholarship and for gift aid;

(b) Review information submitted by each eligible applicant to determine the amount of the Nevada Promise Scholarship the student would receive under the provisions of subsection 6 and notify each applicant whether the applicant is eligible to receive a Nevada Promise Scholarship for the immediately following school year; and

(c) After reviewing applications pursuant to paragraph (a), submit to the State Treasurer the number of students whose applications have been approved and the amount of money that will be required to fund a scholarship for each eligible student pursuant to subsection 6 if no student receives additional gift aid.

3. On the date prescribed by regulation of the State Treasurer, a community college shall submit a request for a disbursement from the Nevada Promise Scholarship Account created by section 8 of this act in the amount prescribed by subsection 6 for each eligible student.

4. A community college shall use the money disbursed pursuant to subsection 5 to pay the difference between the amount of the registration fee and other mandatory fees charged to the student by the community college for the school year, excluding any amount of those fees that is waived by the community college, and the total amount of any other gift aid received by the student for the school year. The community college shall not refund to a student any money disbursed to the community college pursuant to subsection 5.

5. Within the limits of money available in the Nevada Promise Scholarship Account, the State Treasurer shall disburse to a community college the amount requested pursuant to subsection 3. ~~*[The State Treasurer shall adopt regulations prescribing the manner in which money in the Account will be disbursed if]*~~ *If there is insufficient money in the Account to*

disburse that amount to each community college : ~~[. If such a shortage occurs:]~~

(a) The State Treasurer shall ~~[:~~

~~(1) Disburse]~~ determine whether there is sufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship and disburse the available money in the Account to each community college in the following manner ~~[prescribed by the regulations adopted by the State Treasurer; and~~

~~(2) Provide]~~ :

(1) If there is insufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship, the State Treasurer shall not disburse any amount requested for first-time recipients of a Nevada Promise Scholarship and shall disburse money to each community college to fund a scholarship for each student who applied to renew a Nevada Promise Scholarship, in the order in which applications were received by the community college, until the money in the Account is exhausted; and

(2) If there is sufficient money in the Account to disburse the amount requested for all students who applied to renew a Nevada Promise Scholarship, the State Treasurer shall first disburse the money requested by each community college for all students who applied to renew a Nevada Promise Scholarship and then disburse money to each community college to fund a scholarship for each student who applied for the first time to receive a Nevada Promise Scholarship, in the order in which applications were received by the community college, until the money in the Account is exhausted.

(b) The State Treasurer shall provide notice ~~[of the shortage]~~ that insufficient money remains in the Nevada Promise Scholarship Account to:

~~[(I)]~~ (1) The Director of the Legislative Counsel Bureau for transmittal to the Legislative Committee on Education, the Legislative Commission and next regular session of the Legislature; and

~~[(II)]~~ (2) The board of trustees of each school district and the governing body of each charter school in this State. Upon receiving such notice, the board of trustees or governing body, as applicable, shall notify each pupil who is enrolled in a school in the district or the charter school and is on schedule to receive a standard high school diploma at the end of the current school year.

~~[(b)]~~ (c) A community college shall award Nevada Promise Scholarships in accordance with the ~~[regulations prescribed by the State Treasurer.]~~ provisions of paragraph (a) in a manner that gives priority first to students applying for renewal of a Nevada Promise Scholarship and then to applications received by the community college pursuant to section 12 of this act, in the order in which they were received.

6. Within the limits of money available in the Nevada Promise Scholarship Account, the amount of money awarded to a scholarship

recipient pursuant to this section must be equal to the difference between the amount of the registration fee and other mandatory fees charged to the student by the community college for the school year, excluding any amount of those fees that is waived by the community college, and the total amount of any other gift aid received by the student for the school year.

Sec. 17. *1. On or before August 1 of each year, the Board of Regents shall:*

(a) Review all Nevada Promise Scholarships awarded for the immediately preceding school year;

(b) Compile a report for the immediately preceding school year, which must include the number of scholarship recipients, the total cost associated with the award of Nevada Promise Scholarships, the total number of hours of community service performed pursuant to sections 12 and 13 of this act, the overall graduation rate of scholarship recipients, the graduation rate of scholarship recipients enrolled at each community college, the overall scholarship retention rate and the scholarship retention rate for students at each community college; and

(c) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In even-numbered years, the next regular session of the Legislature; and

(2) In odd-numbered years, the Legislative Committee on Education.

2. A community college shall maintain a record for each scholarship recipient for at least 3 years after the end of the final school year for which he or she receives a scholarship. Such a record must include:

(a) The name of the scholarship recipient;

(b) The total amount of money awarded to the scholarship recipient and the amount of money awarded to the scholarship recipient each school year;

(c) The courses in which the scholarship recipient enrolled and the courses completed by the scholarship recipient;

(d) The grades received by the scholarship recipient;

(e) Whether the scholarship recipient is currently enrolled in the community college and, if not, whether he or she earned an associate's degree, a bachelor's degree or a certificate of achievement; and

(f) The records of community service submitted by the scholarship recipient pursuant to sections 12 and 13 of this act.

3. Except as otherwise provided in this section, the Board of Regents and the State Treasurer may at any time audit the practices used by a community college or local partnering organization to carry out the provisions of sections 3 to 17, inclusive, of this act. The Board of Regents and State Treasurer shall not conduct an audit less than 6 months after the most recently conducted audit.

4. A community college shall provide the Board of Regents and the State Treasurer with access to the records maintained pursuant to subsection 2 for the purposes of an annual report compiled pursuant to subsection 1 or an

audit conducted pursuant to subsection 3. Those records are otherwise confidential and are not public records.

5. As used in this section, "scholarship retention rate" means the percentage of scholarship recipients for the school year immediately preceding the school year to which a report compiled pursuant to subsection 1 pertains who did not graduate by the end of that school year and who also received a Nevada Promise Scholarship for the school year to which the report pertains.

Sec. 18. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 17 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. 18.3. There is hereby appropriated from the State General Fund to the Nevada Promise Scholarship Account created by section 8 of this act for the Fiscal Year 2018-2019 the sum of $3,500,000 for the purpose of awarding Nevada Promise Scholarships pursuant to sections 3 to 17, inclusive, of this act.

Sec. 18.5. Notwithstanding the provisions of section 17 of this act, the initial report compiled by the Board of Regents of the University of Nevada pursuant to subsection 1 of section 17 of this act:

1. Must be submitted on or before August 1, 2019, and must provide information concerning the 2017-2018 school year; and

2. Is not required to include the overall graduation rate of scholarship recipients, the graduation rate of scholarship recipients enrolled at each community college, the overall scholarship retention rate or the scholarship retention rate for students at each community college.

Sec. 19. 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. 20. 1. This section and sections 1 to 15, inclusive, and 17, 18 , 18.5 and 19 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2017, for all other purposes.

2. Section 18.3 of this act becomes effective on July 1, 2017.

3. Section 16 of this act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on July 1, 2018, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1097 to Senate Bill No. 391 revises the definition of "Gift aid" to mean a federal Pell grant, a federal Supplemental Educational Opportunity grant, a Governor Guinn Millennium Scholarship or a grant awarded under the Silver State Opportunity Grant Program; increases the required hours of community service to be completed by both initial and ongoing eligible students from 8 and 16 hours, respectively, to 20 hours; increases the required grade point average maintained by an ongoing eligible student from 2.0 to 2.5 on a 4.0 grading scale; establishes a policy for how funds in the Nevada Promise Scholarship Account will be disbursed if there is insufficient money to award all new and renewed scholarships to eligible students, and

appropriates $3.5 million from the General Fund in Fiscal Year 2019 to the Nevada Promise Scholarship Account.

Amendment adopted.

Bill read third time.

Remarks by Senators Denis, Harris and Hardy.

SENATOR DENIS:

Senate Bill No. 391 establishes the Nevada Promise Scholarship Account in the State General Fund to be administered by the Nevada State Treasurer and provides the eligibility requirements for a student to receive or renew a Nevada Promise Scholarship, including completion of community service. The bill requires community colleges within the Nevada System of Higher Education to award scholarships to eligible students and to provide training and mentoring programs for scholarship applicants.

It further provides that each community college or local partnering organization maintain and offer a list of approved community service opportunities. Senate Bill No. 391 requires the State's plan to improve the achievement of pupils enrolled in public schools to include strategies to provide information regarding Nevada Promise Scholarships. The scholarship program is subject to audit, and the Board of Regents must submit an annual report to the Legislature on the cost of the program and statistics on the number of recipients, community service hours and graduation and retention rates.

SENATOR HARRIS:

As the only Republican co-sponsor of Senate Bill No. 391, I rise in support of this bill. This bill is an economic development tool. When Nevada students are considering whether to pursue higher education, the reality is the cost for most families would be 65 percent of their income, and that is a considerable and insurmountable barrier. Fifty-nine percent of young adults in Nevada have not successfully engaged in post-secondary education. Sixty-eight percent of adults in Nevada do not have a two- or four-year post-secondary degree. If Nevada wants to get serious about educating our workforce and preparing Nevada's students for the jobs that are being created, there needs to be a pathway. That pathway is through tuition-assistance scholarships. To make higher education attainable for Nevada's students, investing in them is one of the best policy decisions we can make. As we invest in Nevada's students, the benefits we will receive include stronger communities, a more diversified economy and a better educated workforce. This bill is one of the most responsible pieces of policy we can implement, and I urge my colleagues to support this bill.

SENATOR HARDY:

I have tried to do this sort of thing for 14 years as community service, and here it is for me to vote for without doing a thing. One of the things that is asked when you apply to medical school or other institutes of higher education is what you have done in the community, what types of volunteering have you done? If a student has not done anything, they may not get accepted. The networking that happens as a part of community service is invaluable. This bill is a wonderful idea.

Roll call on Senate Bill No. 391:

YEAS—21.

NAYS—None.

Senate Bill No. 391 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 1:14 p.m.

SENATE IN SESSION

At 8:34 p.m.
President Hutchison presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 49, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 388, 397, 493, 497, 501, 502, 503, 504, 511, 512, 519, 520, 522, 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 referred Senate Bill No. 418, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 167, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 521, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 539, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 130, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was referred Assembly Bill No. 414, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Natural Resources, to which was referred Assembly Bill No. 489, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

YVANNA D. CANCELA, *Chair*

Mr. President:

Your Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 1123 to Assembly Bill No. 29 and Amendment No. 1124 to Assembly Bill No. 362.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Bill No. 69, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PATRICIA FARLEY, *Chair*

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

June 2, 2017

THE HONORABLE AARON D. FORD, *Nevada Legislature*
401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am returning Senate Bill No. 265 to the 79th Session of the Nevada Legislature without my approval, accompanied by my letter of objection.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

June 3, 2017

THE HONORABLE AARON D. FORD, *Nevada Legislature*
401 South Carson Street, Carson City, Nevada 89701

DEAR LEADER FORD:

I am returning Senate Bills Nos. 384 and 397 to the 79th Session of the Nevada Legislature without my approval, accompanied by my letter of objection.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 2, 2017

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. 442, Amendment No. 1106, and respectfully requests your honorable body to concur in said amendment.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 3, 2017

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 66.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 785 to Assembly Bill No. 76; Senate Amendment No. 870 to Assembly Bill No. 123; Senate Amendment No. 981 to Assembly Bill No. 268;

Senate Amendments Nos. 872, 939 to Assembly Bill No. 286; Senate Amendments Nos. 873, 969 to Assembly Bill No. 288; Senate Amendment No. 972 to Assembly Bill No. 322; Senate Amendment No. 874 to Assembly Bill No. 376; Senate Amendment No. 895 to Assembly Bill No. 377; Senate Amendment No. 875 to Assembly Bill No. 380; Senate Amendment No. 788 to Assembly Bill No. 470.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in Senate Amendment No. 954 to Assembly Bill No. 25; Senate Amendment No. 827 to Assembly Bill No. 420.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Farley moved that Assembly Bill No. 29 be taken from the Secretary's desk and placed at the bottom of the General File, last Agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 430.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 1080.

SUMMARY— ~~[Eliminates]~~ Revises provisions relating to the Achievement School District ~~[.]~~ and makes various other changes relating to public schools. (BDR 34-793)

AN ACT relating to education; ~~[removing or repealing all the]~~ revising provisions relating to the Achievement School District; providing for the creation of an additional type of achievement charter school; authorizing the Department to enter into performance compacts with certain public schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 448 of the 2015 Legislative Session established the Achievement School District within the Department of Education, authorized the conversion of certain public schools to achievement charter schools and made various other changes relating to such schools. (Chapter 539, Statutes of Nevada 2015, p. 3775) ~~[This bill effectively rescinds Assembly Bill No. 448 by repealing the new provisions added by that bill and reverting the various statutes to the former language.]~~ Sections 1, 3-5, 10, 12, 15-18 and 25-27 of this bill create a new kind of achievement charter school, to be known as an "A+ school," to which a public school which is eligible for conversion to an achievement charter school may be converted. Specifically, section 24 of this bill authorizes the Executive Director of the Achievement School District to accept applications from an independent administrator to operate an achievement charter school. Section 10 of this bill requires such an independent administrator to manage all aspects of the conversion of the public school to an A+ school and authorizes the independent administrator to recommend that the Executive Director take certain actions to manage the school before an A+ school contract is entered into. Section 12 of this bill requires an independent administrator whose application is approved to

facilitate the negotiation of an A+ school contract and to negotiate an agreement with the board of trustees of the school district in which the A+ school will be located to employ the principal of the A+ school. Section 26 of this bill requires the independent administrator to appoint the governing body of the A+ school, and section 27 of this bill requires the independent administrator to select the principal of the A+ school. Section 15 of this bill authorizes an A+ school to request a waiver from complying with a law of this State relating to education or a regulation of the State Board of Education or Department of Education. Section 15 also grants the governing body of an A+ school discretion over 100 percent of the money apportioned for the school from state financial aid and federal or local funds. Section 16 of this bill prohibits the board of trustees of the school district in which an A+ school is located from engaging in certain activities relating to management or oversight of the A+ school. Section 17 of this bill prohibits an A+ school from commencing operation until the governing body of the school has entered into an indemnification agreement with the board of trustees of the school district in which the A+ school is located. Section 18 of this bill provides immunity from civil liability for the governing body of the A+ school and its volunteer members for certain acts. Section 32 of this bill prohibits an A+ school from commencing operation before August 1, 2018.

Section 8 of this bill provides a process for parents or legal guardians of pupils enrolled at a public school or achievement charter school to petition to convert the school or to have the school enter into a performance compact. Such a petition is valid only if the petition includes a number of signatures greater than 50 percent of the number of pupils who attend the school.

Section 9 of this bill authorizes the Department to offer to negotiate a performance compact with certain public schools. Section 9 prescribes the contents of a performance compact and provides that a performance compact is valid for a term not to exceed 3 school years. Section 9 requires an annual review of a public school subject to a performance compact and authorizes the termination of a performance compact for a public school determined by the Department not to be making adequate progress. Section 9 provides that a public school subject to a performance compact is not eligible for conversion to an achievement charter school.

Section 13 of this bill establishes reporting requirements relating to the performance of an achievement charter school. Section 14 of this bill requires an annual performance review of each achievement charter school and authorizes the Achievement School District to terminate a contract to operate an achievement charter school or an A+ school contract in certain circumstances.

Section 22 of this bill authorizes the Achievement School District, within budgetary limitations, to contract for the services of a consultant or other professional or technical personnel. Section 23 of this bill requires the Executive Director of the Achievement School District to be in the unclassified service of the State and allows the Superintendent of Public

Instruction to designate an employee of the Department to serve as Executive Director.

Section 24 of this bill revises the criteria for eligibility of a public school for conversion to an achievement charter school. Section 24 also allows a charter school which would meet such criteria if it were a public school to apply for conversion to an achievement charter school. Section 24 requires the Department to annually post a list of all public schools eligible for conversion to an achievement charter school on its Internet website. Section 25 of this bill revises the contents and process for consideration of an application by an operator or an independent administrator to operate an achievement charter school. Section 27 of this bill revises provisions relating to the building in which an achievement charter school operates. Section 27 also, to the extent an achievement charter school has the capacity to enroll additional pupils, prescribes an order of priority for the enrollment of such pupils. Section 28 of this bill provides that A+ schools are not deemed to be a local educational agency. Section 29 of this bill authorizes the Executive Director or an operator, independent administrator or governing body of an achievement charter school to consult with the board of trustees of a school district concerning the facilities and services of the board of trustees and any fee charged for such facilities or services. Section 30 of this bill requires the governing body of an achievement charter school to authorize certain children to participate in classes or extracurricular activities not otherwise available at the child's school or homeschool. Section 31 of this bill prohibits a board of trustees of a school district from terminating a licensed employee who is on a leave of absence to teach in an achievement charter school in certain circumstances.

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

Delete existing sections 1 through 43 of this bill and replace with the following new sections 1 through 34:

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. "Achievement charter school" means a public school operated by a charter management organization, as defined in NRS 388B.020, an educational management organization, as defined in NRS 388B.030, *an independent administrator, as defined in section 5 of this act,* or other person *or entity* pursuant to a contract with the Achievement School District pursuant to NRS 388B.210 and subject to the provisions of chapter 388B of NRS.

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, but does not include an opt-in child.

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

5. "Opt-in child" means a child for whom an education savings account has been established pursuant to NRS 353B.850, who is not enrolled full-time in a public or private school and who receives all or a portion of his or her instruction from a participating entity, as defined in NRS 353B.750.

6. "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.

7. "State Board" means the State Board of Education.

8. "University school for profoundly gifted pupils" has the meaning ascribed to it in NRS 388C.040.

Sec. 1.3. NRS 387.1223 is hereby amended to read as follows:

387.1223 1. On or before October 1, January 1, April 1 and July 1, each school district shall report to the Department, in the form prescribed by the Department, the average daily enrollment of pupils pursuant to this section for the immediately preceding quarter of the school year.

2. Except as otherwise provided in subsection 3, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) The count of pupils enrolled in kindergarten and grades 1 to 12, inclusive, based on the average daily enrollment of those pupils during the quarter, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(2) The count of pupils not included under subparagraph (1) who are enrolled full-time in a program of distance education provided by that school district, a charter school located within that school district or a university school for profoundly gifted pupils, based on the average daily enrollment of those pupils during the quarter.

(3) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school or receiving a portion of his or her instruction from a participating entity, as defined in NRS 353B.750, based on the average daily enrollment of those pupils during the quarter.

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school or receiving a portion of his or her instruction from a participating entity, as defined in NRS 353B.750, based on the average daily enrollment of those pupils during the quarter.

(4) The count of pupils not included under subparagraph (1), (2) or (3), who are receiving special education pursuant to the provisions of

NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive, based on the average daily enrollment of those pupils during the quarter and excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435.

(5) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to NRS 388.435, based on the average daily enrollment of those pupils during the quarter.

(6) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570, based on the average daily enrollment of those pupils during the quarter.

(7) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 1 of NRS 388A.471, subsection 1 of NRS 388A.474, subsection 1 of NRS 392.074, ~~[or]~~ subsection 1 of NRS 388B.280 or ~~[any regulations adopted pursuant to NRS 388B.060 that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school,]~~ *subsection 9 of NRS 388B.280*, based on the average daily enrollment of pupils during the quarter and expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (1).

(b) Adding the amounts computed in paragraph (a).

3. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district based on the average daily enrollment of pupils during the quarter of the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school based on the average daily enrollment of pupils during the same quarter of the immediately preceding school year, the enrollment of pupils during the same quarter of the immediately preceding school year must be used for purposes of making the quarterly apportionments from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

5. The Department shall prescribe a process for reconciling the quarterly reports submitted pursuant to subsection 1 to account for pupils who leave the school district or a public school during the school year.

6. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

7. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

8. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

Sec. 1.7. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.417 to 388.469, inclusive, and 388.5251 to 388.5267, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.471, pupils who are enrolled in classes pursuant to subsection 1 of NRS 388A.474 and pupils who are enrolled in classes pursuant to subsection 1 of NRS 388B.280 or ~~[any regulations adopted pursuant to NRS 388B.060 that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school.]~~ *subsection 9 of NRS 388B.280.*

(g) Pupils who are enrolled in classes pursuant to subsection 1 of NRS 392.074.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

Sec. 2. Chapter 388B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 18, inclusive, of this act.

Sec. 3. "A+ school" means an achievement charter school operated pursuant to an A+ school contract.

Sec. 4. "A+ school contract" means an agreement entered into by the Executive Director on behalf of the Achievement School District, the principal appointed by an independent administrator for a public school and the governing body appointed by an independent administrator for a public school pursuant to section 12 of this act.

Sec. 5. "Independent administrator" means a person appointed by the Executive Director to facilitate the negotiation of an A+ school contract and the conversion of a public school to an achievement charter school pursuant to NRS 388B.210 and section 10 of this act.

Sec. 6. "Operator" means a charter management organization, educational management organization or other person who enters into a contract to operate an achievement charter school. The term does not include an independent administrator.

Sec. 7. "Performance compact" means a written agreement between the board of trustees of a school district and the Department which relates to pupil achievement and school performance at a public school.

Sec. 8. 1. The parents or legal guardians of pupils enrolled at a public school which has received, for the most recent school year for which data is available, an annual rating established as the lowest or the second lowest rating possible indicating underperformance of a public school and which is not eligible for conversion to an achievement charter school pursuant to paragraph (a), (b) or (d) of subsection 1 of NRS 388B.200 may submit a petition to the Executive Director to convert the public school to an achievement charter school or to request the board of trustees of the school district in which the public school is located to enter into a performance compact for the public school. Such a petition must be submitted to the Executive Director on or before November 15 of the school year following the school year for which the school received the rating.

2. If a petition pursuant to subsection 1 requests the Department and the board of trustees of a school district to enter into a performance compact for

a public school located in the school district, the petition must include a summary of the requested terms of the performance compact, including, without limitation, the goals for pupil achievement and school performance which must meet or exceed the goals set by the Department for the public school and the proposed actions to achieve such goals.

3. The parents or legal guardians of pupils enrolled at an achievement charter school which has not met the performance goals set forth in its contract may submit a petition to the Executive Director to terminate the contract of the achievement charter school and select a new operator or independent administrator for the achievement charter school or to convert the achievement charter school into a public school, including, without limitation, to the extent allowed by NRS 388G.050, an empowerment school, as defined in NRS 388G.010, or a turnaround school pursuant to NRS 388G.400, under the governance of the board of trustees of the school district in which it is located. Such a petition must not be circulated until the beginning of the third year of the contract and notice must be given to the Executive Director before circulation. Such a petition must be submitted to the Executive Director not later than 30 days after beginning circulation of the petition.

4. If a petition pursuant to subsection 3 proposes to convert an achievement charter school to a public school operated as an empowerment school, the board of trustees of the school district in which the achievement charter school is located must, before the petition is circulated, conditionally approve the conversion of the achievement charter school to an empowerment school upon a successful petition.

5. A petition pursuant to subsection 1 or 3 may only be signed by one parent or legal guardian of each pupil who is enrolled in the public school or achievement charter school which is the subject of the petition. To be valid, such a petition must:

(a) Be in the form prescribed by the State Board and conspicuously posted and available on the Internet;

(b) Designate by name at least one and not more than three petitioners to represent all of the persons who sign the petition and to whom the Executive Director will provide notice of his or her determination of the validity of the petition; and

(c) Include a number of signatures that is greater than 50 percent of the number of pupils who attend the public school or achievement charter school which is the subject of the petition.

6. A person shall not sign a petition pursuant to subsection 1 or 3 on behalf of another person. Each signature on such a petition must be accompanied by:

(a) The printed name and address of the person;

(b) The date on which the person signed the petition; and

(c) The printed name of the pupil who is enrolled in the public school or achievement charter school of whom the person is the parent or legal guardian.

7. Once a petition is submitted to the Executive Director, the petition is final and signatures may not be rescinded. Not later than 15 days after receiving a petition, the Executive Director shall determine whether the petition is valid by verifying the signatures on the petition and preparing a written summary of the verification which includes, without limitation, the number of signatures on the petition that have been verified. Each signature that meets the requirements of this section must be included in the number of verified signatures and may be reviewed, but shall be presumed valid.

8. After determining whether a petition is valid, the Executive Director shall mail a copy of the written summary of verification and his or her determination of validity to the petitioner or petitioners designated in the petition pursuant to paragraph (b) of subsection 5. If the Executive Director determines that the petition is valid, the Executive Director shall notify the State Board. Upon receipt of such a notice, the State Board shall adopt a resolution approving the petition and notify the board of trustees of the school district in which the school is located.

9. If the Executive Director determines that a petition is valid and the petition was submitted:

(a) Pursuant to subsection 1 to request the conversion of a public school to an achievement charter school:

(1) If the public school was not eligible for conversion to an achievement charter school, the public school shall be deemed eligible for conversion to an achievement charter school;

(2) The Executive Director and State Board shall consider the petition when determining whether to select the public school for conversion; and

(3) The Executive Director and State Board shall consider any preference stated in the petition for the appointment of an operator or an independent administrator if the public school is selected for conversion.

(b) Pursuant to subsection 1 to request a performance compact for a public school, the Department and the board of trustees of the school district in which the public school is located may enter into a performance compact containing the terms specified in the petition and the public school is not eligible for conversion to an achievement charter school while the performance compact is in effect.

(c) Pursuant to subsection 3, the Executive Director shall consider the termination of the contract and, if the contract is terminated, the board of trustees of the school district in which the achievement charter school is located shall take such actions as may be necessary to bring the recommendations included in the petition into effect.

10. Any person who conducts any activity relating to a petition pursuant to this section:

(a) On school property must comply with any applicable policies of the school and the school district and must not conduct such activity on school property during school hours; and

(b) Shall not attempt to coerce in any manner or offer a gift, reward or other incentive or make a threat or false statement to induce any person to sign or refrain from signing a petition, including, without limitation, threatening or harassing any person on the basis of his or her immigration status.

11. A school or school district shall take reasonable measures to protect pupils and employees from retaliation or harassment relating to a petition.

12. A board of trustees of a school district, a school district, a public school and any employee thereof shall not use any public money to participate in an organized effort to support or oppose a petition, and such an employee shall not participate in an organized effort to support or oppose a petition during his or her working hours. The provisions of this subsection do not prohibit such an employee from supporting or opposing or participating in an organized effort to support or oppose a petition outside of the working hours of the employee.

Sec. 9. 1. The Department shall offer to negotiate a performance compact with each public school:

(a) Determined to be eligible, but not selected, for conversion to an achievement charter school; and

(b) For which a valid petition requesting a performance compact has been received by the Executive Director.

2. A performance compact must be for a term of 3 school years, must prescribe goals for pupil achievement and school performance and must require a public school to take one of the following actions intended to cause the public school to rapidly improve pupil achievement and school performance:

(a) Receive designation as an empowerment school, as defined in NRS 388G.010.

(b) Receive designation as a turnaround school pursuant to NRS 388G.400.

(c) Adopt a plan that includes evidence-based strategies for improving pupil achievement and school performance developed by the principal of the public school:

(1) In consultation with other administrators and teachers of the public school and the Department; and

(2) With input from parents and legal guardians of pupils enrolled in the public school and other members of the community in which the public school is located.

(d) Enter into a partnership with a nonprofit organization to provide services to pupils that are aligned to a comprehensive plan for improving pupil achievement and school performance.

(e) Any other evidence-based action deemed appropriate by the Department.

➥ A public school which is subject to a performance compact is not eligible for conversion to an achievement charter school for any school year in which the performance compact is effective.

3. The Department shall annually review the progress of the public school toward the goals for pupil achievement and school performance contained in its performance compact. If the public school does not make progress determined by the Department to be adequate toward such goals, the Department may terminate the performance compact. Upon the termination of a performance compact pursuant to this subsection, the Department and the public school may negotiate a new performance compact. If the public school meets the criteria of NRS 388B.200 to be eligible for conversion to an achievement charter school and does not enter into a new performance compact, the public school shall be deemed to be eligible for conversion to an achievement charter school.

4. Within 15 days after the release by the Department of the final ratings for each public school in this State pursuant to NRS 385A.720 for the school year immediately following the school year in which a public school is subject to a performance compact, the principal of the public school shall submit to the board of trustees of the school district in which the public school is located and the State Board a report that includes:

(a) An explanation of whether the public school met the goals for pupil achievement and school performance prescribed in the performance compact;

(b) A description of the programs to support higher pupil achievement and school performance that have been implemented since entering into the performance compact; and

(c) A description of parental involvement and family engagement at the public school, which must describe:

(1) The extent to which parental involvement and family engagement aligns to the policy of parental involvement adopted by the State Board and the policy of parental involvement and family engagement adopted by the board of trustees of the school district in which the public school is located pursuant to NRS 392.457; and

(2) The observed impact of parental involvement and family engagement on pupil achievement and school performance at the public school.

5. The board of trustees of each school district and the State Board shall post on their Internet websites any report submitted pursuant to subsection 4.

6. As used in this section, "evidence-based" has the meaning ascribed to it in 20 U.S.C. § 7801(21)(A)(i).

Sec. 10. 1. An independent administrator appointed by the Executive Director to facilitate the negotiation of an A+ school contract shall manage all aspects of the conversion of the public school to an A+ school.

2. An independent administrator may recommend that the Executive Director take one or more of the following actions and include in an A+ school contract of language which ratifies such actions:

(a) Supersede any decision, policy or regulation of the board of trustees of the school district in which the public school in the process of conversion to an A+ school is located or of the principal of the school that is not covered by a collective bargaining agreement and that, in the sole judgment of the independent administrator, conflicts with the plan being developed for the school;

(b) Expand or replace the curriculum or program offerings of the public school in the process of conversion to an A+ school;

(c) Extend the school day or school year;

(d) Develop a budget aligned to the components of the plan being developed for the public school in the process of conversion to an A+ school which includes, without limitation, discretion over 100 percent of the amount of money from the state financial aid and federal or local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district;

(e) Supersede any employment decision by the board of trustees of the school district in which the public school in the process of conversion to an A+ school is located or by the principal of the school unless the decision relates to the independent administrator himself or herself;

(f) Establish methods to improve hiring, instruction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure;

(g) Reconstitute the positions of all members of the teaching and administrative and supervisory staff of the public school in the process of conversion to an A+ school, including the principal, and require that each employee of the school that wishes to be employed after the conversion to an A+ school is complete must reapply for a position; or

(h) Negotiate one or more changes to or waivers of any part of a collective bargaining agreement which covers an employee of the public school in the process of conversion to an A+ school.

3. An independent administrator shall consult with the governing body of the A+ school for all decisions relating to the A+ school, including, without limitation:

(a) The development of a plan for the performance of the A+ school for the year after an A+ school contract is executed;

(b) The negotiation of an A+ school contract; and

(c) The provision of direct support and oversight to the public school for the period beginning on the date that the independent administrator is appointed and ending at the conclusion of the following school year.

4. The principal of an A+ school may request the assistance of the independent administrator after the conclusion of the period specified in paragraph (c) of subsection 3.

5. If the person appointed by an independent administrator as the principal of an A+ school ceases for any reason to be the principal of the A+ school during the term of an A+ school contract, the governing body of the A+ school shall select a replacement.

Sec. 11. A contract with an operator to operate an achievement charter school must include, without limitation, clear, quantifiable goals for:

1. Improving the attendance and reducing the truancy and transiency of pupils enrolled in the achievement charter school;

2. Improving the performance of pupils enrolled in the achievement charter school on examinations that measure the achievement and proficiency of pupils pursuant to the state system of accountability for public schools; and

3. If the achievement charter school is a high school, improving the graduation rate at the achievement charter school and reducing the rate at which pupils drop out of the achievement charter school.

Sec. 12. 1. An independent administrator whose application is approved by the Executive Director shall facilitate the negotiation of an A+ school contract entered into by the governing body of the A+ school, the principal of the A+ school and the Executive Director on behalf of the Achievement School District. An A+ school contract must include, without limitation:

(a) A plan to improve pupil achievement and school performance;

(b) Any conditions which the Achievement School District has determined are necessary for the A+ school to satisfy before the commencement of operation to ensure that the A+ school meets all building, health, safety, insurance and other legal requirements; and

(c) A plan for oversight and annual monitoring and review of the A+ school by the Achievement School District, including, without limitation, the rights and responsibilities of the A+ school and the Achievement School District, in which the A+ school agrees to the full oversight of, monitoring by and compliance of the A+ school with requirements of the Achievement School District and the Department.

2. In addition to the provisions required by subsection 1, an A+ school contract may include, without limitation:

(a) Any waiver from a statute contained in this title or a regulation of the State Board or Department which has been granted by the State Board for the A+ school pursuant to section 15 of this act;

(b) Provisions which identify each facility or service provided by a school district which the A+ school wishes to receive from the school district pursuant to NRS 388B.260 or, if a facility or service cannot be provided by the school district, from another person or entity; and

(c) Provisions which ensure appropriate liability coverage is obtained for the A+ school.

3. An independent administrator shall negotiate an agreement with the board of trustees of the school district in which the A+ school will be located

to employ the principal of the A+ school but must delegate the management of the principal to the governing body of the A+ school and the Achievement School District pursuant to a contract for the performance of the principal.

4. The Achievement School District shall, within 10 days after the execution of an A+ school contract, provide written notice to the Department of the A+ school contract and the date on which it was executed, a copy of the plan to improve pupil achievement and school performance included in the contract and any other documentation relevant to the A+ school contract.

5. The Achievement School District may require, upon request of the independent administrator or on its own determination, that an A+ school delay the commencement of operation for not more than 1 year after the execution of an A+ school contract.

Sec. 13. 1. The principal of each achievement charter school shall, within 15 days after the release by the Department of the final ratings for each public school in this State pursuant to NRS 385A.720, submit to the Achievement School District a report that includes, without limitation:

(a) An explanation of whether the achievement charter school met the goals for pupil achievement and school performance prescribed in the contract of the achievement charter school;

(b) A description of the programs to support higher pupil achievement and school performance that have been implemented since entering into the contract of the achievement charter school;

(c) An annual financial audit conducted by an external auditor; and

(d) A description of parental involvement and family engagement at the achievement charter school, which must describe:

(1) The extent to which parental involvement aligns to the policy of parental involvement adopted by the State Board; and

(2) The observed impact of parental involvement and family engagement on pupil achievement and school performance at the achievement charter school.

2. Each achievement charter school shall host not less than two annual parent meetings, one of which must be hosted at the beginning of the school year to gather input from parents and legal guardians of pupils enrolled at the achievement charter school and one of which must be hosted at the end of the school year to review the performance of the achievement charter school.

Sec. 14. 1. Each year, the Achievement School District shall conduct a performance review of each achievement charter school which includes, without limitation, a review of the academic, financial and organizational performance of the achievement charter school and whether the achievement charter school has met the expectations and performance goals set forth in its contract.

2. In addition to any other circumstances under which a contract to operate an achievement charter school or an A+ school contract may be terminated, the Achievement School District may terminate a contract to

operate an achievement charter school or an A+ school contract before the expiration of the contract if the Executive Director determines that:

(a) The achievement charter school or its officers or employees:

(1) Committed a material breach of the terms and conditions of the contract;

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

(3) Failed to comply with any statute or regulation applicable to achievement charter schools; or

(4) Has persistently underperformed, as measured by the performance goals set forth in the contract;

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

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

(d) The operator or independent administrator of the achievement charter school, the governing body of the achievement charter school or an employee of the achievement charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the Executive Director, the Achievement School District or any representative or employee thereof.

3. If the Executive Director decides to terminate a contract to operate an achievement charter school or an A+ school contract, the Executive Director shall, on or before March 31 following the date of the decision, notify the operator, independent administrator or governing body of the achievement charter school, as applicable, of the decision to terminate the contract.

4. The operator, independent administrator or governing body of an achievement charter school, as applicable, may appeal the decision of the Executive Director to the Department if the appeal is requested within 60 days after receiving notice pursuant to subsection 3.

5. The operator, independent administrator or governing body of an achievement charter school, as applicable, shall notify the parent or legal guardian of each pupil enrolled in the achievement charter school on or before May 31 following receipt of a notice pursuant to subsection 3.

6. If a contract to operate an achievement charter school or an A+ school contract is terminated, the Executive Director must select a new operator or independent administrator to operate the achievement charter school.

Sec. 15. 1. An A+ school may request a waiver from a statute contained in this title or a regulation of the State Board or Department. Such a waiver request must be submitted to the Achievement School District for transmittal to the State Board for review. The State Board may approve a request for a waiver that:

(a) Does not violate federal law or any provision of state law or regulation which is required to carry out federal law; and

(b) Advances the mission and intent of the A+ school and is in the best interest of the pupils served by the A+ school.

2. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the A+ school with a written statement indicating the reason for the denial; and

(b) Provide the A+ school with a reasonable opportunity to correct any deficiencies in the request identified in the written statement and resubmit the request for approval. A request may be resubmitted not more than once in a school year.

3. If the State Board approves a request for a waiver, the A+ school and the Achievement School District shall:

(a) Amend the A+ school contract to include the waiver as soon as practicable; and

(b) Indemnify the school district in which the A+ school is located for liability resulting from any provision of statute or regulation which is waived.

4. The State Board shall annually compile a report which includes, without limitation, a list of all A+ schools that had a request for a waiver approved pursuant to subsection 1 and each provision of statute or regulation waived pursuant to such a request and submit the report on or before October 1 of:

(a) Each odd-numbered year to the Legislative Committee on Education.

(b) Each even-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

➥ Upon the request of a Legislator, the State Board shall update its most recent report with information regarding any waiver approved since the report was submitted.

5. For the purpose of determining the budget of an A+ school, the governing body of the A+ school shall have discretion over 100 percent of the money from the state financial aid and federal or local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district.

6. Except as otherwise provided in subsection 7, if an action determined to be necessary by the principal of the A+ school to implement the A+ school contract will:

(a) Increase the cost of operating the A+ 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 A+ 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.

7. If the board of trustees of a school district reduces the amount of money allocated to each public school located in the school district, an A+ school shall reduce its budget by a commensurate amount.

8. Any money remaining in the account of an A+ school at the end of a fiscal year does not revert to the State General Fund, and the balance in the account of an A+ school must be carried forward to the next fiscal year.

Sec. 16. 1. The board of trustees of the school district in which an A+ school is located shall not:

(a) Assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school in the school district to an A+ school.

(b) Interfere with the operation and management of the A+ school except as authorized by the A+ school contract, this chapter and any other statute or regulation applicable to an achievement charter school or its officers or employees.

(c) Engage in or direct others to engage in oversight or management of the principal of an A+ school.

2. If the board of trustees of a school district in which an A+ school is located identifies evidence of misconduct by the principal of the A+ school which is harmful to pupils enrolled in the A+ school, the board of trustees may request the Department to conduct a formal inquiry into the matter. The Department shall conduct a formal inquiry and submit its findings to the Superintendent of Public Instruction for a final determination and a proposed resolution. The decision of the Superintendent of Public Instruction is final and not subject to judicial review.

Sec. 17. 1. An A+ school shall not commence operation until the governing body of the school has entered into an agreement with the board of trustees of the school district in which the A+ school is located to indemnify the school district for the activities of the A+ school.

2. The Department shall, by regulation, prescribe minimum standards for such an indemnification agreement pursuant to subsection 1.

3. If the governing body of an A+ school and the board of trustees of a school district fail to execute an indemnification agreement after a reasonable amount of time, the Superintendent of Public Instruction shall arbitrate the differences between the governing body and the board of trustees.

Sec. 18. 1. The governing body of an A+ school and its volunteer members are immune from liability for civil damages as a result of an act or omission in performing the following duties:

(a) Providing assistance and advice to the independent administrator or principal of the A+ school regarding the development of an A+ school contract;

(b) Providing continued assistance and advice to the principal of the A+ school in carrying out the A+ school contract;

(c) Establishing a list of qualifications for the principal of the A+ school and assisting with the selection of the next principal if a vacancy occurs;

(d) Providing input regarding the principal to the independent administrator, Achievement School District or Department;

(e) Recommending candidates for the position of principal to the independent administrator; and

(f) Reviewing the A+ school contract and making recommendations for revisions to the contract.

2. Each volunteer member of the governing body of an A+ school who participates in the interviewing of a candidate for employment shall comply with all state and federal laws relating to employment.

Sec. 19. NRS 388B.010 is hereby amended to read as follows:

388B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 388B.020 to 388B.050, inclusive, *and sections 3 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 20. NRS 388B.050 is hereby amended to read as follows:

388B.050 "Public school" does not include ~~[a charter school or]~~ a university school for profoundly gifted pupils ~~[.]~~ *or, except as otherwise provided in NRS 388B.200, a charter school.*

Sec. 21. NRS 388B.060 is hereby amended to read as follows:

388B.060 The Department shall adopt any regulations necessary or convenient to carry out the provisions of this chapter. The regulations may prescribe, without limitation:

1. The process by which the Executive Director will solicit the input of:

(a) Members of the community in which a public school is located, including, without limitation, parents of pupils enrolled at the public school, before selecting the public school for conversion to an achievement charter school pursuant to NRS 388B.200; and

(b) Parents of pupils enrolled at a public school that has been selected for conversion to an achievement charter school concerning the needs of such pupils before approving an application to operate the achievement charter school pursuant to NRS 388B.210.

2. The process by which the Executive Director will solicit applications to operate an achievement charter school *, including, without limitation, to serve as an independent administrator,* and the procedure and criteria that the Executive Director must use when evaluating such applications.

3. The manner in which the Executive Director will monitor and evaluate pupil achievement and school performance of an achievement charter school.

4. The process by which the parent or legal guardian of a child may apply for enrollment in an achievement charter school, including, without limitation, the required contents of the application, and the criteria used to determine which pupils will be enrolled in the achievement charter school. An achievement charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the race, gender, religion, ethnicity or disability of a pupil.

5. ~~[Circumstances under which the governing body of a charter school may authorize a child who is enrolled in a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the achievement charter school.~~

~~6.]~~ The procedure for converting an achievement charter school into a public school.

Sec. 22. NRS 388B.100 is hereby amended to read as follows:

388B.100 1. The Achievement School District is hereby created within the Department.

2. The Achievement School District may employ such persons as it deems necessary to carry out the provisions of this chapter. The employees of the Achievement School District:

(a) Must be qualified to carry out the daily responsibilities of overseeing achievement charter schools in accordance with the provisions of this chapter; and

(b) Are in the unclassified service of the State and serve at the pleasure of the Executive Director.

3. The Achievement School District may, to the extent that money is available for that purpose, contract for the services of a consultant or other professional or technical personnel as the Achievement School District may require to carry out the provisions of this chapter.

Sec. 23. NRS 388B.110 is hereby amended to read as follows:

388B.110 1. The Superintendent of Public Instruction shall appoint an Executive Director of the Achievement School District ~~[.]~~ *or designate an employee of the Department to serve as Executive Director of the Achievement School District.* The Executive Director *is in the unclassified service of the State and* shall serve at the pleasure of the Superintendent of Public Instruction.

2. The Executive Director is the chief of the Achievement School District. The Executive Director has the powers and duties assigned by this chapter and any other applicable law or regulation and such other powers and duties as may be assigned by the Superintendent of Public Instruction.

3. The Executive Director shall develop policies and practices for the operation of the Achievement School District that are consistent with state laws and regulations governing achievement charter schools. Such policies and practices must include, without limitation, the manner in which the

Achievement School District will maintain oversight of achievement charter schools.

Sec. 24. NRS 388B.200 is hereby amended to read as follows:

388B.200 1. A public school is eligible for conversion to an achievement charter school if:

(a) Based upon the most recent annual report of the statewide system of accountability for public schools, the public school is an elementary school or middle school that was rated in the lowest 5 percent of elementary or middle schools in this State in pupil achievement and school performance for the most recent school year;

(b) The public school is a high school that had a graduation rate for the immediately preceding school year of less than 60 percent; ~~[or]~~

(c) ~~[Pupil achievement and school performance at the public school is unsatisfactory as determined by the Department pursuant to the criteria established by regulation of the Department.]~~ *The public school has been identified by the Department for comprehensive support and improvement pursuant to 20 U.S.C. § 6311(c)(4)(D)(i);*

(d) The board of trustees of the school district in which the public school is located recommends the school to the Department for conversion to an achievement charter school;

(e) The public school has received, for the most recent school year for which data is available, an annual rating established as the lowest or the second lowest rating possible indicating underperformance of a public school and a valid petition containing the number of signatures required pursuant to section 8 of this act has been submitted to the Executive Director;

(f) Except as otherwise provided in subsection 2, the public school has received, for the most recent school year for which data is available, an annual rating established as the lowest rating possible indicating underperformance of a public school; or

(g) Except as otherwise provided in subsection 2, the public school has received, for the most recent school year for which data is available, an annual rating established as the second lowest rating possible indicating underperformance of a public school and the public school has demonstrated a downward trend in pupil achievement and school performance as determined by the Department pursuant to the statewide system of accountability for public schools.

2. *If a public school described in paragraph (f) or (g) of subsection 1 has entered into a performance compact and met the goals for pupil achievement and school performance prescribed in the performance compact for the year in which the public school received the annual rating described in those paragraphs, the public school is not eligible for conversion to an achievement charter school.*

3. The governing body of a charter school which would be eligible for conversion to an achievement charter school pursuant to subsection 1 if the

charter school were a public school may apply to the Executive Director for conversion to an achievement charter school. If the governing body of a charter school submits such an application, the charter school shall be deemed a public school for the purpose of this chapter.

4. The Executive Director shall notify the board of trustees of the school district in which a public school is located if the Executive Director determines that the public school is eligible for conversion to an achievement charter school pursuant to subsection 1. Within 5 business days after receipt of such a notification, the board of trustees shall, in a manner that complies with all applicable federal and state laws concerning the privacy of information, provide the Executive Director with the name, address, telephone number, electronic mail address and any other contact information known to the board of trustees for each parent or legal guardian of a pupil who is enrolled in the public school.

5. On or before September 15 of each year, the Department will post conspicuously on its Internet website a list of the public schools that are eligible for conversion to an achievement charter school pursuant to subsection 1. The list must include any existing intervention which is being carried out at each such public school and identify each public school for which a petition may be filed pursuant to paragraph (e) of subsection 1. Upon publication of such a list by the Department, the board of trustees of each school district shall post conspicuously on its Internet website:

(a) A copy of the list;

(b) A statement that each public school on the list is eligible to enter into a performance compact or be converted to an achievement charter school;

(c) A summary of the relevant provisions of this section; and

(d) For each public school located in the school district for which a petition may be filed pursuant to paragraph (e) of subsection 1, the number of signatures required for such a petition to be considered valid.

6. Each year, the Executive Director shall submit a list of not less than 20 percent of the public schools that are eligible for conversion to an achievement charter school pursuant to subsection 1 to the State Board for its approval. Within 30 days after the list is submitted, the State Board shall approve at least 50 percent of the schools on the list.

~~[3.]~~ *When determining which schools to approve, the State Board shall consider any relevant information, including, without limitation, historical data concerning a public school that is maintained pursuant to the statewide system of accountability for public schools and any efforts by the board of trustees of the school district in which a public school is located to improve pupil achievement and school performance at the public school.*

7. Each year, the Executive Director may select not more than six public schools approved for consideration by the State Board pursuant to subsection ~~[2.]~~ *6* for conversion to achievement charter schools ~~[.]~~ *or for an agreement with a charter school that allows the parent or legal guardian of a pupil enrolled at the public school to enroll the pupil in the charter school.*

Before selecting a public school for conversion to an achievement charter school [,] *or for such an agreement,* the Executive Director must:

(a) Consider available data concerning pupil achievement and school performance for the public school, including, without limitation, data from the statewide system of accountability for public schools and data maintained by the board of trustees of the school district in which the public school is located;

(b) Solicit, in accordance with *subsection 8 and* any regulations adopted pursuant to NRS 388B.060, [and consider] input from *a majority of the* parents of pupils enrolled at the public school and other members of the community in which the public school is located [;] and *consider any such input received by the Executive Director;*

(c) Consult with the board of trustees of the school district in which the public school is located [.

4.] *; and*

(d) Comply with all federal and state laws concerning equality and civil rights that prohibit discrimination.

8. To satisfy the requirements of paragraph (b) of subsection 7, the Executive Director must, without limitation:

(a) Hold one or more in-person meetings in the community in which the public school is located;

(b) Solicit input from parents and legal guardians of pupils enrolled in the public school using strategies and practices for effective parental involvement and family engagement developed by the Office of Parental Involvement and Family Engagement pursuant to NRS 385.635; and

(c) Take any other reasonable measures he or she deems appropriate.

9. The Executive Director shall notify a public school selected for conversion to an achievement charter school and the school district in which the public school is located not later than 60 days after making the selection.

Sec. 25. NRS 388B.210 is hereby amended to read as follows:

388B.210 1. For each public school *or charter school* selected for conversion to an achievement charter school pursuant to NRS 388B.200, the Executive Director shall:

(a) Solicit applications from [educational management organizations, charter management organizations] *operators* and [other persons] *independent administrators* to operate the achievement charter school.

(b) Provide information to parents of pupils enrolled at the public school *or charter school* concerning programs of instruction that applicants to operate the achievement charter school have proposed to offer at the achievement charter school and, in accordance with any regulations adopted pursuant to NRS 388B.060, solicit the input of such parents concerning the needs of such pupils , [and] the ability of the proposed programs of instruction to address those needs [.] *and the preference of the parents for an operator or an independent administrator to be chosen to operate the school before approving an application pursuant to paragraph (c).*

(c) Taking into consideration the input provided pursuant to paragraph (b), evaluate the applications submitted to operate the achievement charter school and approve the application that the Executive Director determines is high quality, meets the identified educational needs of pupils and is likely to improve pupil achievement and school performance.

(d) Negotiate and enter into a contract to operate the achievement charter school directly with the ~~[charter management organization, educational management organization or other person]~~ *operator* whose application is approved pursuant to paragraph (c) ~~[.]~~ *or begin negotiations facilitated by an independent administrator whose application is approved pursuant to paragraph (c) to enter into an A+ school contract.* A contract *with an operator* to operate an achievement charter school *or an A+ school contract* must be for a term of 6 years. The term of the contract begins on the first day on which the contract provides that the ~~[educational management organization, charter management organization]~~ *operator* or ~~[other person]~~ *independent administrator* is responsible for the operation of the achievement charter school. *A contract with an operator to operate an achievement charter school or an A+ school contract must include the terms described in sections 11 and 12 of this act, as applicable.*

(e) Monitor the performance and compliance of each achievement charter school.

2. ~~[The Department shall adopt regulations that prescribe the process by which a charter management organization, educational management organization or other person may apply to operate an achievement charter school. Such regulations]~~ *An application for an operator* must ~~[,]~~ *be on a form prescribed by the Department and include*, without limitation:

(a) ~~[Require each application to include a]~~ *A* plan to involve and engage the parents and families of pupils enrolled at the achievement charter school; ~~[and]~~

(b) ~~[Authorize a charter management organization, educational management organization or other person to submit one application to operate more than one achievement charter school.]~~ *A description of the mission and goals of the achievement charter school;*

(c) The school model and academic plan for the achievement charter school;

(d) Performance goals for the pupils enrolled in the achievement charter school;

(e) The leadership team for and governing body of the achievement charter school;

(f) The financial plan and policies of the achievement charter school;

(g) A clear and high-quality plan for the achievement charter school that prescribes the organizational structure of the achievement charter school and includes measurable goals for the achievement charter school;

(h) A clear basis for assessing the ability of the applicant to carry out the plan described in paragraph (g); and

(i) If the applicant operates other schools, data concerning the demographics, pupil achievement and school performance of each school operated by the applicant, including, without limitation, results that demonstrate a record of success in serving similar pupils.

3. *An application for an independent administrator must be on a form prescribed by the Department and include, without limitation, information that describes the experience of the applicant relating to:*

(a) Leading or selecting leaders for a high-performing school;

(b) Managing financial systems and operations;

(c) Litigation, including, without limitation, whether the applicant is licensed to practice law in this State or any other state;

(d) Managing budgets;

(e) General management;

(f) The regulation of schools;

(g) Public relations and interacting with the press; and

(h) Community engagement.

4. The Executive Director shall:

(a) Accept applications pursuant to subsections 2 and 3 throughout each year and, at least once each year, review all applications submitted to the Executive Director pursuant to subsections 2 and 3 before the Executive Director begins to review applications;

(b) At least 60 days before reviewing applications submitted pursuant to subsections 2 and 3, provide a notice to the Department for posting on the Internet website maintained by the Department of the date on which the Executive Director will begin to review applications;

(c) Notify each operator and independent administrator who submits an application whether the application is approved or denied;

(d) If practicable, obtain assistance from one or more independent reviewers to review applications submitted pursuant to subsections 2 and 3; and

(e) Notify the State Board and the board of trustees of the school district in which the achievement charter school is located as soon as practicable after the Executive Director approves an application for an operator or independent administrator pursuant to paragraph (c) of subsection 1.

5. If ~~[a charter management organization, educational management organization]~~ *an operator* or ~~[other person]~~ *independent administrator* applies to operate more than one achievement charter school *,* ~~[pursuant to paragraph (b) of subsection 2,]~~ the Department must not approve the application unless any charter school currently operated by the ~~[charter management organization, educational management organization]~~ *operator* or ~~[other person]~~ *independent administrator* meets specific criteria for pupil achievement and school performance established for each such school by the Department.

6. An achievement charter school may request the Executive Director to amend the contract entered into pursuant to paragraph (d) of subsection 1 to

expand the achievement charter school. The Executive Director may grant such a request if the Executive Director determines that such an expansion:

(a) Is in the best interests of the pupils of this State; and

(b) Would primarily serve pupils who are enrolled in public schools that meet the requirements to be eligible for conversion to an achievement charter school prescribed in NRS 388B.200.

7. A decision of the Executive Director to approve or deny an application to operate an achievement charter school or to approve or deny a request to amend a contract pursuant to subsection 6 is a final decision for the purpose of judicial review.

Sec. 26. NRS 388B.220 is hereby amended to read as follows:

388B.220 1. After a contract is entered into pursuant to paragraph (d) of subsection 1 of NRS 388B.210, the Achievement School District shall be deemed the sponsor of the achievement charter school for all purposes, including, without limitation, receipt of the sponsorship fee prescribed pursuant to NRS 388A.414.

2. The ~~[charter management organization, educational management organization]~~ *operator* or ~~[other person]~~ *independent administrator* with whom the Executive Director enters into a contract to operate the achievement charter school *or an A+ school contract, as applicable,* shall appoint the governing body of the achievement charter school, consisting of such persons as deemed appropriate by the ~~[charter management organization, educational management organization]~~ *operator* or ~~[other person]~~ *independent administrator* and who meet the requirements set forth in ~~[subsection]~~ *subsections* 3 ~~[.]~~ *, 4 and 5.* The governing body has such powers and duties as assigned pursuant to this chapter and any other applicable law or regulation and by the Executive Director.

3. ~~[At least two members of the governing body of an achievement charter school must reside in the community in which the achievement charter school is located.]~~ A person who is employed by ~~[the charter management organization, educational management organization]~~ *an operator* or ~~[other person]~~ *independent administrator* with whom the Executive Director has entered into a contract to operate the achievement charter school *or an A+ school contract* may not serve as a voting member of the governing body of the achievement charter school.

4. *If the governing body of an achievement charter school is appointed by an operator, at least two members of the governing body must reside in the community in which the achievement charter school is located.*

5. If the governing body of an achievement charter school is appointed by an independent administrator, the governing body must:

(a) Consist of not more than nine members selected from the community, the staff of the achievement charter school and the parents or legal guardians of pupils currently enrolled in the achievement charter school. A member of an organizational team, parent-teacher association or similar body of the school being converted must be given priority in appointment.

(b) Receive all training or professional development that is required of members of a board of trustees of a school district or, if no such training or professional development is required, such training as may be prescribed by the Department by regulation before beginning to discharge its duties.

6. The Executive Director may terminate a contract to operate an achievement charter school *or an A+ school contract* before the expiration of the contract *pursuant to section 14 of this act or* under circumstances prescribed by regulation of the Department.

Sec. 27. NRS 388B.230 is hereby amended to read as follows:

388B.230 1. After the governing body of an achievement charter school is appointed pursuant to NRS 388B.220, the ~~[governing]~~ *:*

(a) Governing body *of an achievement charter school that is not an A+ school* shall select the principal of the achievement charter school. The principal shall review each employee of the achievement charter school to determine whether to offer the employee a position in the achievement charter school based on the needs of the school and the ability of the employee to meet effectively those needs.

(b) Independent administrator of an A+ school shall select the principal of the achievement charter school and review each employee of the achievement charter school to determine whether to offer the employee a position in the achievement charter school based on the needs of the school and the ability of the employee to meet effectively those needs. The independent administrator shall notify the board of trustees of any employee who is not offered a position in the A+ school on or before March 1 immediately preceding the school year in which the A+ school will begin operation.

2. The board of trustees of the school district in which the achievement charter school is located shall reassign any employee who is not offered a position in the achievement charter school or does not accept such a position in accordance with any collective bargaining agreement negotiated pursuant to chapter 288 of NRS.

~~[2.]~~ *3.* An achievement charter school must continue to operate in the same building in which the school operated before being converted to an achievement charter school. The board of trustees of the school district in which the school is located *retains ownership of the building and* must provide such use of the building without compensation. While the school is operated as an achievement charter school, the governing body of the achievement charter school shall pay all costs related to the maintenance and operation of the building and the board of trustees shall pay all capital expenses.

~~[3.]~~ *The governing body of the achievement charter school shall enter into an agreement with the board of trustees of the school district which must include, without limitation:*

(a) A clear description of the maintenance and operation for which the governing body will assume responsibility;

(b) Provisions delineating responsibility for any necessary renovations and building improvements;

(c) Any requirements concerning the maintenance of insurance;

(d) A requirement that a representative of the board of trustees conduct an annual inspection of the property on which the achievement charter school operates to ensure that the property is maintained in accordance with the agreement;

(e) A requirement that, when the achievement charter school ceases operation for any reason, a representative of the board of trustees will inspect the property on which the achievement charter school operates and take an inventory of any property of the school district that is missing or damaged; and

(f) Provisions governing the reimbursement of the school district for any property of the school district found to be missing or damaged during an inspection described in paragraph (d) or (e).

4. If a public school is converted to an achievement charter school, any fixtures, improvements or other tangible assets added by the board of trustees of the school district in which the public school is located, or by the governing body of the charter school, to the building used by the achievement charter school must remain with the building after the school begins to operate as an achievement charter school.

5. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district or a charter school subject to the provisions of chapter 388A of NRS, any fixtures, improvements or other tangible assets added by the governing body of the achievement charter school to the building used by the achievement charter school must remain with the building after the school ceases to operate as an achievement charter school.

6. The board of trustees of a school district:

(a) Is not required to give priority to a capital project at a public school that is selected for conversion to an achievement charter school; and

(b) Shall not reduce the priority of such a capital project that existed before the school was selected for conversion.

~~[4.]~~ *7.* Any pupil who was enrolled at the school before it was converted to an achievement charter school must be enrolled in the achievement charter school unless the parent or guardian of the pupil submits a written notice to the principal of the achievement charter school that the pupil will not continue to be enrolled in the achievement charter school.

~~[5.]~~ *If an achievement charter school has the capacity to enroll additional pupils after enrolling such pupils, a pupil who resides within the zone of attendance established for the school pursuant to NRS 388.040, if any, may be enrolled in the achievement charter school before a pupil who does not reside within that zone of attendance.*

8. If an achievement charter school has the capacity to enroll additional pupils after enrolling pupils pursuant to subsection 7, the achievement charter school:

(a) Except as otherwise provided in paragraph (b), may enroll pupils in the same order of priority prescribed for a charter school pursuant to NRS 388A.453 and 388A.456; and

(b) May enroll pupils with a household income that is less than 185 percent of the federally designated level signifying poverty who reside within the zone of attendance established pursuant to NRS 388.040 for a public school that was included in the most recent list of public schools eligible for conversion to an achievement charter school published pursuant to NRS 388B.200 before enrolling other pupils.

9. The governing body of an achievement charter school shall not authorize the payment of loans, advances or other monetary charges to the ~~[charter management organization, educational management organization or other person]~~ *operator* with whom the Executive Director has entered into a contract to operate the achievement charter school *or to the independent administrator who facilitated an A+ school contract* which are greater than 15 percent of the total expected funding to be received by the achievement charter school from the State Distributive School Account.

10. As used in this section, "capital expense" includes, without limitation, any repair to a building that:

(a) Has a cost of more than $15,000;

(b) Has a useful life of 5 years or more;

(c) Is intended to extend the useful life of the building; and

(d) Meets any applicable standard of the Building Owners and Managers Association International or its successor organization.

Sec. 28. NRS 388B.240 is hereby amended to read as follows:

388B.240 1. Each achievement charter school *operated by an operator* is hereby deemed a local educational agency for the purpose of receiving any money available from federal and state categorical grant programs. An achievement charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

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

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

Sec. 29. NRS 388B.260 is hereby amended to read as follows:

388B.260 1. Upon request of the Executive Director, the board of trustees of the school district in which an achievement charter school is located shall provide facilities to operate the achievement charter school, in addition to and not including the building in which the achievement charter school operates pursuant to NRS 388B.230, or perform any service relating

to the operation of the achievement charter school, including, without limitation, transportation, the provision of health services for pupils who are enrolled in the achievement charter school and the provision of school police officers. *The Executive Director or an operator, independent administrator or governing body of an achievement charter school may consult with the board of trustees of the school district concerning the facilities and services of the board of trustees and any fee charged for such facilities and services.* The governing body of the achievement charter school shall reimburse the board of trustees for the cost of such facilities and services. If a dispute arises between the governing body of an achievement charter school or the Executive Director and the board of trustees of a school district concerning the cost of such facilities and services to be reimbursed, the Superintendent of Public Instruction must determine the cost to be reimbursed.

2. In addition to the school building used by the Achievement School District pursuant to NRS 388B.230, an achievement charter school may use any public facility located within the school district in which the achievement charter school is located. An achievement charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district.

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

4. An achievement charter school may:

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

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

(c) Borrow money and otherwise incur indebtedness; and

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

Sec. 30. NRS 388B.280 is hereby amended to read as follows:

388B.280 1. Except as otherwise provided in this section, upon the request of a parent or legal guardian of a pupil who is enrolled in an achievement charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the achievement charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

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

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

2. If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 1, the board of trustees is not required to provide transportation for the pupil to attend the class or activity.

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

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

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

4. If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to subsection 3, the board of trustees is not required to provide transportation for the pupil to participate.

5. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sport at a public school pursuant to subsection 1 or 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

6. Upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child or opt-in child, the governing body of an achievement charter school shall authorize the child to participate in a class or extracurricular activity that is not otherwise available to the child at his or her school or homeschool or from his or her participating entity, as defined in NRS 353B.750, on the same terms and to the same extent as provided for a charter school pursuant to NRS 388A.471.

Sec. 30.5. NRS 388B.290 is hereby amended to read as follows:

388B.290 1. During the sixth year that a school operates as an achievement charter school, the Department shall evaluate the pupil achievement and school performance of the school. The Executive Director shall provide the Department with such information and assistance as the Department determines necessary to perform such an evaluation. If, as a result of such an evaluation, the Department determines:

(a) That the achievement charter school has made adequate improvement in pupil achievement and school performance, the governing body of the achievement charter school must decide whether to:

(1) Convert to a public school under the governance of the board of trustees of the school district in which the school is located;

(2) Seek to continue as a charter school subject to the provisions of chapter 388A of NRS by applying to the board of trustees of the school district in which the school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education to sponsor the charter school pursuant to NRS 388A.220; or

(3) Remain an achievement charter school for at least 6 more years.

(b) That the achievement charter school has not made adequate improvement in pupil achievement and school performance, the Department shall direct the Executive Director to notify the parent or legal guardian of each pupil enrolled in the achievement charter school that the achievement charter school has not made adequate improvement in pupil achievement and school performance. Such notice must include, without limitation, information regarding:

(1) Public schools which the pupil may be eligible to attend, including, without limitation, charter schools, programs of distance education offered pursuant to NRS 388.820 to 388.874, inclusive, and alternative programs for the education of pupils at risk of dropping out of school pursuant to NRS 388.537;

(2) The opportunity for the parent to establish an education savings account pursuant to NRS 353B.850 and enroll the pupil in a private school, have the pupil become an opt-in child or provide for the education of the pupil in any other manner authorized by NRS 353B.900;

(3) Any other alternatives for the education of the pupil that are available in this State; and

(4) The actions that may be considered by the Department with respect to the achievement charter school and the manner in which the parent may provide input.

2. Upon deciding that the achievement charter school has not made adequate improvement in pupil achievement and school performance pursuant to paragraph (b) of subsection 1, the Department must decide whether to:

(a) Convert the achievement charter school to a public school under the governance of the board of trustees of the school district in which the school is located; or

(b) Continue to operate the school as an achievement charter school for at least 6 more years.

3. If the Department decides to continue to operate a school as an achievement charter school pursuant to subsection 2, the Executive Director must:

(a) Terminate the contract with the ~~[charter management organization, educational management organization or other person that operated]~~ *operator to operate* the achievement charter school ~~[;]~~ *or the A+ school contract, as applicable;*

(b) Enter into a contract with a different ~~[charter management organization, educational management organization or other person]~~ *operator or independent administrator* to operate the achievement charter school after complying with the provisions of NRS 388B.210;

(c) Require the ~~[charter management organization, educational management organization or other person]~~ *operator or independent administrator* with whom the Executive Director enters into a contract to operate the achievement charter school to appoint a new governing body of the achievement charter school in the manner provided pursuant to NRS 388B.220, and must not reappoint more than 40 percent of the members of the previous governing body; and

(d) Evaluate the pupil achievement and school performance of such a school at least each 3 years of operation thereafter.

4. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district pursuant to paragraph (a) of subsection 1, the board of trustees must employ any teacher, administrator or paraprofessional who wishes to continue employment at the school and meets the requirements of chapter 391 of NRS to teach at the school. Any administrator or teacher employed at such a school who was employed by the board of trustees as a postprobationary employee before the school was converted to an achievement charter school and who wishes to continue employment at the school after it is converted back into a public school must be employed as a postprobationary employee.

5. If an achievement charter school becomes a charter school sponsored by the school district in which the charter school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education pursuant to paragraph (a) of subsection 1, the school is subject to the provisions of chapter 388A of NRS and the continued operation of the charter school in the building in which the school has been operating is subject to the provisions of NRS 388A.378.

6. As used in this section, "postprobationary employee" has the meaning ascribed to it in NRS 391.650.

Sec. 31. NRS 388B.400 is hereby amended to read as follows:

388B.400 1. The board of trustees of a school district shall grant a leave of absence, not to exceed 6 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept or continue employment with an achievement charter school.

2. After any of the first 5 school years 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 sixth 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.

3. The board of trustees shall grant a written request to return to a comparable position pursuant to subsection 2 even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district.

4. The board of trustees is not required to accept the return of a licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to NRS 388B.430, 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 achievement charter school.

5. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to subsection 2 be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. The board of trustees of a school district shall not terminate a licensed employee who is on a leave of absence granted pursuant to subsection 1 as a result of a reduction in workforce due to unforeseen economic circumstances.

Sec. 32. The Executive Director of the Achievement School District created pursuant to NRS 388B.100 shall not enter into an A+ school contract, as defined in section 4 of this act, which allows for such a school to begin to operate as an A+ school on or before July 31, 2018.

Sec. 33. 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. 34. 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 this act, and on July 1, 2017, for all other purposes.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 1080 to Senate Bill No. 430 retains the core components of the Achievement School District while creating a new school improvement option called A+ schools, which operate with greater autonomy; enables parents whose children attend an underperforming school to petition for certain school turnaround options to be undertaken by the school; requires the Department of Education to negotiate a performance compact with certain underperforming schools; allows qualifying existing charter schools to request entry into the Achievement School District, and prescribes other operational guidelines for the Achievement School District.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 539.

Bill read second time and ordered to third reading.

Assembly Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 1088.

SUMMARY—Makes various changes relating to charter schools. (BDR 34-255)

AN ACT relating to education; revising the requirements for a charter school to be eligible to be rated using the alternative performance framework; prohibiting certain actions relating to written charters and charter contracts; creating a process for filing complaints regarding charter schools which are sponsored by the State Public Charter School Authority; requiring a charter school to give written notice to the parent or legal guardian of each pupil and take certain actions after the occurrence of certain events; establishing a process for a charter school to have an expedited review to become a qualified provider of an alternative route to licensure; prohibiting a member of the State Public Charter School Authority from engaging in certain acts; revising provisions relating to the appointment of the Executive Director of the Authority; revising various other provisions relating to charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the sponsor of a charter school to amend a written charter or charter contract upon the request of the governing body of a charter school. (NRS 388A.276) Existing law also requires the State Board of Education to adopt regulations which prescribe an alternative performance framework to evaluate certain schools which serve certain populations and prescribes eligibility requirements for a school to be rated using the alternative performance framework. (NRS 385A.730, 385A.740) Sections 1 and 2 of this bill establish additional eligibility requirements for a charter school to be rated using the alternative performance framework. Section 11 of this bill provides for the amendment of a written charter or charter contract or the execution of a charter contract of a charter school to comply with the requirements of sections 1 and 2. Section 25 of this bill allows the formation of a charter school dedicated to providing educational services exclusively to pupils described in section 1.

Existing law provides for the formation and operation of charter schools in this State. (Chapter 388A of NRS) Existing law authorizes the State Public Charter School Authority or, with the approval of the Department of Education, the board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor a charter school. (NRS 388A.220) For any charter school approved before June 11, 2013, existing law requires the sponsor of the charter school to grant a written charter to the governing body of the charter school. For any charter school approved on or after that date, existing law requires the sponsor to enter into a charter contract with the governing body of the charter school. (NRS 388A.270) Section 4 of this bill: (1) provides that a written charter or

charter contract is not assignable or transferable and may not be delegated to a third party; and (2) prohibits the use of a written charter or charter contract as security for a loan. Section 5 of this bill requires a charter school to designate any information submitted to the sponsor of the charter school that is intended to remain confidential and requires the sponsor to determine whether such information should be declared confidential. Sections 5.5-10 of this bill provide for the filing, investigation and resolution of complaints regarding charter schools sponsored by the State Public Charter School Authority. Section 11.5 of this bill requires a charter school to give written notice to the parent or legal guardian of each pupil and take certain actions upon the occurrence of certain events. Section 12.3 of this bill authorizes the governing body of a high-achieving charter school to submit a written request for the sponsor of the charter school to authorize the establishment of an experimental academic program or new school model at the school. Section 12.5 of this bill deems a charter school to be a political subdivision of this State for certain purposes relating to purchasing or leasing public land. Section 12.7 of this bill authorizes the State Public Charter School Authority to select not more than two charter schools sponsored by the Authority to act as a local educational agency for certain purposes. Section 13 of this bill requires the Department of Education to satisfy certain requirements before submitting an application for a grant which may result in the distribution of money to a charter school or a sponsor of a charter school.

Existing law requires the Commission on Professional Standards in Education to adopt regulations providing for an alternative route to licensure for teachers and other educational personnel and establishing the requirements for approval as a qualified provider of such an alternate route. (NRS 391.019) Section 12 of this bill authorizes a charter school or charter management organization that meets certain requirements to request its sponsor or proposed sponsor to submit a request for an expedited review from the Commission of the application of the charter school or charter management organization to become a qualified provider. Section 12 also authorizes the sponsor or proposed sponsor of the charter school to include a request for a waiver by the Commission of any requirement not prescribed by existing law for the charter school or charter management organization.

Existing law creates the State Public Charter School Authority, requires the Authority to appoint an Executive Director and authorizes the Authority to sponsor charter schools. (NRS 388A.150, 388A.190, 388A.220) Section 15 of this bill, with the exception of allowing not more than two members of the Authority to be teachers or administrators employed by certain charter schools or charter management organizations, prohibits a member of the Authority from actively engaging in business with or holding a direct pecuniary interest relating to charter schools. Section 16 of this bill revises the process for appointing and the qualifications required of the Executive Director of the Authority.

Existing law authorizes the proposed sponsor of a charter school to review an application to form a charter school and approve the application if it satisfies certain requirements. (NRS 388A.249) Section 21 of this bill provides that the identity of each member of a team of reviewers assembled by the proposed sponsor of a charter school to review an application to form a charter school is confidential for a certain period of time after review of the application. Sections 14, 19, 20, 23, 24 and 26 of this bill make various other changes relating to charter schools.

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

Section 1. NRS 385A.740 is hereby amended to read as follows:

385A.740 1. A public school, including, without limitation, a charter school, that wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730 must request the board of trustees of the school district or sponsor of the charter school, as applicable, to apply to the State Board on behalf of the school for approval to be rated using the alternative performance framework.

2. The board of trustees of a school district or the sponsor of a charter school, as applicable, may apply to the State Board on behalf of a school for the school to be rated using the alternative performance framework by submitting a form prescribed by the Department.

3. A *public* school ~~*[other than a charter school]*~~ is eligible to be rated using the alternative performance framework if:

(a) The school specifies that the mission of the school is to serve pupils who:

(1) Have been expelled or suspended from a public school, including, without limitation, a charter school;

(2) Have been deemed to be a habitual disciplinary problem pursuant to NRS 392.4655;

(3) Are academically disadvantaged;

(4) Have been adjudicated delinquent;

(5) Have been adjudicated to be in need of supervision for a reason set forth in NRS 62B.320; or

(6) Have an individualized education program; and

(b) At least 75 percent of the pupils enrolled at the school fall within one or more of the categories listed in paragraph (a).

4. ~~*[A]*~~ *In addition to the provisions of subsection 3, a charter school is eligible to be rated using the alternative performance framework if the charter school:*

(a) Specifies in its written charter or charter contract that:

(1) The mission of the charter school is to serve ~~*[only]*~~ *primarily pupils who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3; and*

(2) The admissions policy of the charter school only allows the pupils identified in its mission statement to newly enroll in the charter school; ~~*[and]*~~

(b) At the time of its application to be rated using the alternative performance framework, has an enrollment of at least 75 percent of pupils who are pupils identified in its mission statement; and

(c) Completes any requirements to transition to the alternative performance framework required by the proposed sponsor of the charter school pursuant to section 11 of this act.

5. ~~[In addition to the requirements of subsection 4, if the charter school, at the time of its application to be rated using the alternative performance framework, has one or more enrolled pupils who are not identified in its mission statement, the charter school must have a plan approved by its sponsor for at least 75 percent of pupils enrolled in the charter school to be pupils identified in its mission statement by a certain date.~~

~~6.]~~ As used in this section, "academically disadvantaged" includes, without limitation, being retained in the same grade level two or more times or having a deficiency in the credits required to graduate on time.

Sec. 2. NRS 385A.740 is hereby amended to read as follows:

385A.740 1. A public school, including, without limitation, a charter school, that wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730 must request the board of trustees of the school district or sponsor of the charter school, as applicable, to apply to the State Board on behalf of the school for approval to be rated using the alternative performance framework.

2. The board of trustees of a school district or the sponsor of a charter school, as applicable, may apply to the State Board on behalf of a school for the school to be rated using the alternative performance framework by submitting a form prescribed by the Department.

3. A public school is eligible to be rated using the alternative performance framework if:

(a) The school specifies that the mission of the school is to serve pupils who:

(1) Have been expelled or suspended from a public school, including, without limitation, a charter school;

(2) Have been deemed to be a habitual disciplinary problem pursuant to NRS 392.4655;

(3) Are academically disadvantaged;

(4) Have been adjudicated delinquent;

(5) Have been adjudicated to be in need of supervision for a reason set forth in NRS 62B.320; or

(6) Have an individualized education program; and

(b) At least 75 percent of the pupils enrolled at the school fall within one or more of the categories listed in paragraph (a).

4. In addition to the provisions of subsection 3, a charter school is eligible to be rated using the alternative performance framework if the charter school:

(a) Specifies in its ~~[written charter or]~~ charter contract that:

(1) The mission of the charter school is to serve primarily pupils who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3; and

(2) The admissions policy of the charter school only allows the pupils identified in its mission statement to newly enroll in the charter school;

(b) At the time of its application to be rated using the alternative performance framework, has an enrollment of at least 75 percent of pupils who are pupils identified in its mission statement; and

(c) Completes any requirements to transition to the alternative performance framework required by the proposed sponsor of the charter school pursuant to section 11 of this act.

5. As used in this section, "academically disadvantaged" includes, without limitation, being retained in the same grade level two or more times or having a deficiency in the credits required to graduate on time.

Sec. 3. Chapter 388A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 13, inclusive, of this act.

Sec. 4. *1. A written charter issued by the sponsor of a charter school to the governing body of the charter school is not assignable or transferable and may not be delegated to a third party.*

2. A charter contract entered into between the governing body of a charter school and the sponsor of the charter school is not assignable or transferable and may not be delegated to a third party.

3. A written charter or charter contract may not be used as security for any loan and shall be deemed to have no monetary value.

4. For the purpose of this section, an amendment to a written charter or charter contract which consolidates two or more charter schools, the restart of a charter school pursuant to NRS 388A.300 and the reconstitution of the governing body of a charter school pursuant to NRS 388A.330 do not constitute the assignment, transfer or delegation of a written charter or charter contract.

Sec. 5. *1. Except as otherwise provided in subsection 2, any information ~~[relating to an educational management organization or other person who provides educational or management services to a charter school or charter management organization]~~ that is provided to the sponsor of the charter school ~~[or a charter school operated by the charter management organization]~~ by a charter management organization, a committee to form a charter school or a charter school is ~~[not confidential and may be disclosed to any member of the general]~~ a public ~~[upon request.]~~ record that is subject to the provisions of chapter 239 of NRS.*

2. A charter school must designate any information contained in a submission by the charter school to the sponsor of the charter school that is intended to remain confidential and request for the sponsor to declare such information confidential. Upon receipt of such a request, the sponsor of the charter school shall determine whether the designated information should be declared confidential. If the sponsor of the charter school determines the

information should not be declared confidential, the sponsor must give the charter school an opportunity to redact such information. Except as otherwise provided in NRS 239.0115, if the sponsor of the charter school determines that the information should be declared confidential, the information is confidential and must not be disclosed.

Sec. 5.5. *The provisions of sections 5.5 to 10, inclusive, of this act apply only to a charter school which is sponsored by the State Public Charter School Authority.*

Sec. 6. *1. Except as otherwise provided by federal law, a parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a written complaint relating to that charter school with the State Public Charter School Authority which alleges a violation of the provisions of this chapter, the written charter or charter contract of the charter school or any other provision of law or regulation relating to the management or operation of the charter school.*

2. Upon receipt of a complaint filed pursuant to subsection 1, the State Public Charter School Authority shall investigate the allegations contained within the complaint, conduct a review to determine whether the charter school has complied with the provisions of this chapter, the written charter or charter contract and respond in writing to the complaining party within 30 days after receipt of the complaint. The staff of the charter school and any other person named in the complaint shall cooperate with the State Public Charter School Authority during such an investigation.

Sec. 7. *1. A parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school who has evidence that a charter school has violated any state or federal law or regulation relating to special education or pupils who are limited English proficient may file a complaint relating to that charter school directly with the Department and notify the State Public Charter School Authority in writing. The Department shall investigate the complaint and notify the State Public Charter School Authority of its findings.*

2. A person who has evidence that a charter school or an employee or vendor of a charter school has committed a crime shall file a complaint directly with a law enforcement agency and notify the State Public Charter School Authority in writing. The law enforcement agency may investigate the complaint and notify the State Public Charter School Authority of its findings.

3. A person who has evidence that a charter school has violated any law or regulation which is within the jurisdiction of an agency of this State other than the Department may file a complaint directly with the appropriate agency and notify the State Public Charter School Authority in writing. If the agency determines that credible evidence exists to support the complaint, the

agency shall investigate the complaint and notify the State Public Charter School Authority of its findings.

4. The State Public Charter School Authority shall accept the findings of the Department, a law enforcement agency or an agency pursuant to subsection 1, 2 or 3, as applicable, as conclusive unless it is shown that the Department, law enforcement agency or agency acted with fraud or a gross abuse of discretion.

Sec. 8. *1. A parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a complaint relating to that charter school directly with the State Public Charter School Authority if the person has evidence that the charter school has:*

(a) Violated any law or regulation relating to the health and safety of pupils;

(b) Violated any law or regulation relating to the civil rights of pupils, except for a law or regulation described in subsection 1 of section 7 of this act;

(c) Violated any law or regulation or policy of the sponsor of the charter school relating to the enrollment, suspension or expulsion of pupils;

(d) Committed fraud, financial mismanagement or financial malfeasance; or

(e) Committed academic dishonesty, including, without limitation, engaging in a policy or practice that has the intent or effect of inappropriately increasing the graduation rate or inappropriately increasing performance on assessments mandated by this State or the State Public Charter School Authority.

2. If the State Public Charter School Authority determines that credible evidence exists to support a complaint submitted pursuant to subsection 1, the State Public Charter School Authority shall investigate the complaint and respond to the complaining party in writing.

Sec. 9. *1. If the State Public Charter School Authority determines that external expertise is necessary to conduct an investigation of a complaint filed pursuant to sections 5.5 to 10, inclusive, of this act, the State Public Charter School Authority may select an investigator to conduct the investigation and make any appropriate determinations or recommendations to the State Public Charter School Authority.*

2. If the State Public Charter School Authority determines that a violation has occurred, the State Public Charter School Authority may petition a court of competent jurisdiction for an order directing the charter school to reimburse the State Public Charter School Authority for all or part of the actual costs of its investigation. If the court confirms that a violation has occurred, the court may order the charter school to reimburse the State Public Charter School Authority for all or part of the actual costs of its investigation in an amount the court determines to be reasonable under the

circumstances. A charter school subject to such an order must reimburse the State Public Charter School Authority within 30 days after issuance of the order. Any money received by the State Public Charter School Authority pursuant to this subsection must be used for investigations, audits and other proceedings of the State Public Charter School Authority and does not revert to the State General Fund.

3. If the State Public Charter School Authority determines that a current or former member of the governing body of the charter school or a current or former employee of the charter school failed to cooperate with any investigation conducted pursuant to this section, the State Public Charter School Authority may begin a proceeding to revoke the written charter or terminate the charter contract of the charter school pursuant to NRS 388A.330.

4. If the State Public Charter School Authority determines that the charter school or an employee of the charter school has violated any provision of this chapter or another statute or regulation applicable to charter schools or has materially breached the terms and conditions of the written charter or charter contract of the charter school, the State Public Charter School Authority may:

(a) Begin a proceeding to revoke the written charter or terminate the charter contract of the charter school pursuant to NRS 388A.330; and

(b) Refer the matter to the district attorney of the county in which the charter school is located, the Attorney General or any other appropriate agency for further action.

5. If the State Public Charter School Authority determines that the current operations of the charter school pose an imminent danger to the health and safety of the pupils or staff of the charter school, the State Public Charter School Authority shall order the charter school to suspend its operations at any or all of its facilities until appropriate corrective action has been taken.

Sec. 10. *The governing body of a charter school shall develop a policy for accepting, investigating and responding to complaints and submit the policy to the State Public Charter School Authority for review and approval. Such a policy may allow for a complaint to be delegated to the staff of the charter school or an educational management organization if the policy allows a complaining party who does not believe the staff of the charter school or educational management organization has adequately addressed a complaint to submit the complaint to the governing body of the charter school for its investigation and response.*

Sec. 11. *1. If a charter school wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, the governing body of the charter school may submit to the sponsor of the charter school a request to amend the written charter or charter contract, as applicable, of the charter school pursuant to*

NRS 388A.276 to include the mission statement and admissions policy required by subsection 4 of NRS 385A.740.

2. The sponsor of a charter school may require that:

(a) A request to amend a written charter or charter contract described in subsection 1 also include such changes to the academic program, organizational plan and financial model of the charter school as the sponsor of the charter school determines are necessary for a charter school rated using the alternative performance framework; and

(b) A charter school which submits a request to amend a written charter or charter contract described in subsection 1 perform such actions as the sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework.

3. The sponsor of a charter school shall evaluate a request to amend a written charter or charter contract described in subsection 1 by reviewing the academic, organizational and financial performance of the charter school. If the sponsor of the charter school determines that the charter school is unlikely to achieve academic, organizational or financial success if the request to amend its written charter or charter contract is approved, the sponsor of the charter school must deny the request.

4. Unless invited to do so by the sponsor of the charter school, the governing body of a charter school whose request to amend its written charter or charter contract is denied pursuant to subsection 3 may not submit a materially similar request for 1 year after the denial of its request.

5. If a proposed sponsor of a charter school approves an application to form a charter school and the proposed sponsor of the charter school determines that the charter school has a mission statement and an admissions policy which satisfy the requirements of subsection 4 of NRS 385A.740, the proposed sponsor of the charter school shall include language in the charter contract entered into with the charter school which provides that:

(a) Except as otherwise provided in paragraph (b), the proposed sponsor of the charter school will submit an application to the State Board on behalf of the charter school for the charter school to be rated using the alternative performance framework within 2 years after the charter school commences operation;

(b) The proposed sponsor of the charter school will submit the application described in paragraph (a) only upon the successful completion by the charter school of such actions as the proposed sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework; and

(c) Upon approval of such an application by the State Board, the performance framework adopted by the proposed sponsor of the charter school will be replaced by the alternative performance framework.

Sec. 11.5. *1. A charter school shall ~~[provide]~~ mail a written notification to the parent or legal guardian of each pupil enrolled in the*

charter school ~~[,]~~ and post a notice prominently on the Internet website of the charter school ~~[and revise the marketing materials of the charter school to include such a notice]~~ within 5 business days after:

(a) The Department reports that the graduation rate of the charter school for that school year was less than 67 percent;

(b) The Department reports that the charter school was rated in the lowest 5 percent of public schools in the State pursuant to the statewide system of accountability for public schools;

(c) The Department reports that the charter school received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools;

(d) The governing body of the charter school submits to the sponsor of the charter school a written request for an amendment of the written charter or charter contract of the charter school which would result in the:

(1) Relocation of the charter school to a location more than 1 mile from its current location;

(2) Closure of a campus of the charter school or the elimination of one or more grade levels; or

(3) Reduction of enrollment as a result of an academic, financial or organizational issue;

(e) The sponsor of the charter school issues a notice of intent to revoke the written charter or terminate the charter contract of the charter school; or

(f) The sponsor of the charter school revokes the written charter or terminates the charter contract of the charter school.

2. Within 10 days after a charter school provides all notices required by subsection 1, the charter school shall certify compliance with that subsection to the sponsor of the charter school.

3. A written notice provided to a parent or legal guardian pursuant to subsection 1 must include a list of other public schools to which a pupil may transfer if the charter school closes or adopts changes which a parent or legal guardian finds unacceptable.

~~[3.]~~ 4. Within ~~[10]~~ 30 days after a charter school provides the notice required by subsection 1 ~~[,]~~ and on a date determined by the sponsor of the charter school, the charter school shall hold a public hearing to discuss a plan to correct any issue which caused the issuance of such a notice and to solicit suggestions to improve the performance of the charter school.

Sec. 12. *1. A charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools may request that its sponsor submit a request to the Commission on Professional Standards in Education for an expedited review of an application to become a qualified provider of an alternative route to licensure pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.*

2. A charter management organization which operates a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, and which intends to form a new charter school in this State may request that its proposed sponsor submit a request to the Commission on Professional Standards in Education for an expedited review of an application to become a qualified provider of an alternative route to licensure pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019.

3. If a sponsor or proposed sponsor receives a request pursuant to subsection 1 or 2 and determines that the charter school or charter management organization, as applicable, is eligible to become a qualified provider, the sponsor or proposed sponsor may submit a request for an expedited review of the appropriate application to the Commission on Professional Standards in Education.

4. A charter school or charter management organization may include in a request made pursuant to subsection 1 or 2 a request for the Commission on Professional Standards in Education to waive any requirement which may apply to a program for an alternative route to licensure that is not prescribed by NRS 391.019. If the sponsor or proposed sponsor, as applicable, approves the request made pursuant to this subsection, the sponsor or proposed sponsor may include the request for a waiver with the request for an expedited review submitted pursuant to subsection 3.

5. Upon receipt of the written request of a sponsor of a charter school or a proposed sponsor of a charter management organization for an expedited review submitted pursuant to subsection 3 and an application to become a qualified provider, the Commission on Professional Standards in Education shall review the application to become a qualified provider and approve or deny the application within 45 days after receipt of the application and the written request. If the request for an expedited review includes a request for a waiver pursuant to subsection 4, the Commission on Professional Standards in Education shall waive any requirement which may apply to a program for an alternative route to licensure that is not prescribed by NRS 391.019.

Sec. 12.3. *1. The governing body of a charter school that receives one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools may submit a written request for the sponsor of the charter school to authorize the establishment of an experimental academic program or new school model in the charter school. If the sponsor of the charter school approves the request, such a program or model must be established in the charter school. Enrollment in such a program or model:*

(a) Must not exceed 50 pupils during the first year in which the program or model is in operation.

(b) Must not exceed 100 pupils during the second year in which the program or model is in operation.

(c) Must not exceed 150 pupils during the third year in which the program or model is in operation.

(d) Must not exceed any number prescribed by the sponsor of the charter school during the fourth year in which the program or model is in operation, or any year thereafter.

2. If an experimental academic program or new school model established pursuant to subsection 1 receives one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, the governing body of the charter school in which the program or model is established may:

(a) Submit to the sponsor of the charter school a written request for an amendment of the written charter or charter contract, as applicable, to divide the charter school into multiple charter schools operating under the same governing body; or

(b) Establish a committee to form a charter school and submit to a proposed sponsor an application to form a charter school using the experimental academic program or new school model.

3. If the sponsor of a charter school grants a request for an amendment of the written charter or charter contract submitted pursuant to subsection 2, the sponsor shall negotiate and execute a charter contract with the governing body of the charter school for each experimental academic program or new school model.

4. Before a charter school formed pursuant to this section enrolls any pupil who is eligible for enrollment pursuant to NRS 388A.453 and 388A.456, the charter school may enroll a child who was enrolled in the experimental academic program or new school model before the charter school was formed.

Sec. 12.5. 1. A charter school is deemed to be a political subdivision of this State for the purposes of 43 U.S.C. §§ 869 et seq. and any law of this State relating to purchasing or leasing public land.

2. Any property acquired by a charter school as a result of subsection 1 may only be transferred to this State or a political subdivision of this State.

3. If a charter school which has acquired property as a result of subsection 1 relocates, closes or otherwise ceases operations, the ownership of all such property must be transferred to this State or a political subdivision of this State.

Sec. 12.7. 1. The State Public Charter School Authority may select not more than two charter schools sponsored by the State Public Charter School Authority to act as a local educational agency for the purposes described in subsection 2.

2. A charter school selected pursuant to subsection 1 is hereby deemed a local educational agency for the purpose of receiving any money available from federal and state categorical grant programs. A charter school that

receives money pursuant to such a program shall comply with any applicable reporting requirements to receive the grant.

3. If a charter school selected pursuant to subsection 1 is eligible to receive special education program units, the Department shall pay the special education program units directly to the charter school.

4. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(30)(A).

Sec. 13. *Before submitting an application for any grant which may result in the distribution of money to a charter school or the sponsor of a charter school, the Department shall:*

1. Consider the definitions and measures of school performance specified in the grant and make any necessary adjustments to the information submitted by the Department to conform to the definitions and measures of school performance specified in the grant;

2. Separately determine the academic performance for each campus of the charter school and the charter school as a whole; and

3. If the State Board has approved an application by a charter school to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, apply the alternative performance framework to evaluate the performance of the charter school.

Sec. 14. NRS 388A.150 is hereby amended to read as follows:

388A.150 *1.* The State Public Charter School Authority is hereby created. The purpose of the State Public Charter School Authority is to:

~~[1.]~~ *(a)* Authorize charter schools of high-quality throughout this State with the goal of expanding the opportunities for pupils in this State, including, without limitation, pupils who are at risk.

~~[2.]~~ *(b)* Provide oversight to the charter schools that it sponsors to ensure that those charter schools maintain high educational and operational standards, preserve autonomy and safeguard the interests of pupils and the community.

~~[3.]~~ *(c)* Serve as a model of the best practices in sponsoring charter schools and foster a climate in this State in which all *high-quality* charter schools, regardless of sponsor, can flourish.

2. The provisions of this section shall not be construed to create a duty for the State Public Charter School Authority to provide any assistance, support or services to a charter school other than to carry out its purpose as described in subsection 1.

Sec. 15. NRS 388A.153 is hereby amended to read as follows:

388A.153 1. The State Public Charter School Authority consists of seven members. The membership of the State Public Charter School Authority consists of:

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

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

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

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

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

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

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

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology;

(6) The laws and regulations applicable to charter schools;

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

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

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

4. *Except as otherwise provided in subsection 5, a member of the State Public Charter School Authority must not be actively engaged in business with or hold a direct pecuniary interest relating to charter schools, including, without limitation, serving as a vendor, contractor, employee, officer, director or member of the governing body of a charter school, educational management organization or charter management organization.*

5. Not more than two members of the State Public Charter School Authority may be teachers or administrators who are employed by a charter school or charter management organization in this State. For a teacher or administrator employed by a charter school or charter management organization to be eligible to serve as a member of the State Public Charter School Authority, the charter school or charter management organization which employs the teacher or administrator must not have ever received an annual rating established as one of the three lowest ratings of performance pursuant to the statewide system of accountability for public schools.

6. After the initial terms, the term of each member of the State Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State Public Charter School Authority must be filled for the remainder of the

unexpired term in the same manner as the original appointment. A member shall continue to serve on the State Public Charter School Authority until his or her successor is appointed.

~~[5.]~~ *7.* The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

~~[6.]~~ *8.* Each member of the State Public Charter School Authority is entitled to receive:

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

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

Sec. 15.5. NRS 388A.159 is hereby amended to read as follows:

388A.159 1. ~~[The]~~ *Except as otherwise provided in section 12.7 of this act, the* State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. A college or university within the Nevada System of Higher Education that sponsors a charter school shall enter into an agreement with the State Public Charter School Authority for the provision of any necessary functions of a local educational authority. A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

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

Sec. 16. NRS 388A.190 is hereby amended to read as follows:

388A.190 1. The ~~[State Public Charter School Authority shall appoint an]~~ Executive Director of the State Public Charter School Authority ~~[for a term of 3 years. The State Public Charter School Authority shall ensure that the Executive Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.~~

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

~~3. The Executive Director is~~]:

(a) Must be appointed by the Governor from a list of three candidates submitted by the State Public Charter School Authority and serves at the pleasure of the Governor.

(b) Is in the unclassified service of the State.

2. To be eligible for appointment to the office of Executive Director of the State Public Charter School Authority, a person must:

(a) Be at least 21 years of age at the time of appointment; and

(b) Possess a demonstrated understanding of charter schools and a commitment to using charter schools to strengthen public education in this State.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 388A.223 is hereby amended to read as follows:

388A.223 1. Each sponsor of a charter school shall carry out the following duties and powers:

(a) Evaluating applications to form charter schools as prescribed by NRS 388A.249;

(b) Approving applications to form charter schools that the sponsor determines are high quality, meet the identified educational needs of pupils and will serve to promote the diversity of public educational choices in this State;

(c) Declining to approve applications to form charter schools that do not satisfy the requirements of NRS 388A.249;

(d) Negotiating, *developing* and executing charter contracts pursuant to NRS 388A.270;

(e) Monitoring, in accordance with this chapter and in accordance with the terms and conditions of the applicable charter contract, the performance and compliance of each charter school sponsored by the entity;

(f) Determining whether the charter contract of a charter school that the entity sponsors merits renewal or whether the renewal of the charter contract should be denied or whether the written charter should be revoked or the charter contract terminated or restarted, as applicable, in accordance with NRS 388A.285, 388A.300 or 388A.330, as applicable;

(g) Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 388A.330; and

(h) Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 388A.330.

2. Each sponsor of a charter school shall develop policies and practices that are consistent with state laws and regulations governing charter schools. In developing the policies and practices, the sponsor shall review and evaluate nationally recognized policies and practices for sponsoring organizations of charter schools. The policies and practices must include, without limitation:

(a) The organizational capacity and infrastructure of the sponsor for sponsorship of charter schools, which must not be described as a limit on the number of charter schools the sponsor will approve;

(b) The procedure and criteria for soliciting and evaluating charter school applications in accordance with NRS 388A.249, which must include, without limitation:

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

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

(c) The procedure and criteria for evaluating applications for the renewal of charter contracts pursuant to NRS 388A.285;

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

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

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

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

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

(g) A description of the process of evaluation for the charter schools it sponsors in accordance with NRS 388A.351.

3. Evidence of material or persistent failure to carry out the powers and duties of a sponsor prescribed by this section constitutes grounds for revocation of the entity's authority to sponsor charter schools.

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

Sec. 20. NRS 388A.246 is hereby amended to read as follows:

388A.246 An application to form a charter school must include all information prescribed by the Department by regulation and:

1. A summary of the plan for the proposed charter school.

2. A clear written description of the mission of the charter school and the goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(a) Improving the academic achievement of pupils;

(b) Encouraging the use of effective and innovative methods of teaching;

(c) Providing an accurate measurement of the educational achievement of pupils;

(d) Establishing accountability and transparency of public schools;

(e) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(f) Creating new professional opportunities for teachers.

3. A clear description of the indicators, measures and metrics for the categories of academics, finances and organization that the charter school proposes to use, the external assessments that will be used to assess performance in those categories and the objectives that the committee to form a charter school plans to achieve in those categories, which must be expressed in terms of the objectives, measures and metrics. The objectives and the indicators, measures and metrics used by the charter school must be consistent with the performance framework adopted by the sponsor pursuant to NRS 388A.270.

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

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

6. The minimum, planned and maximum projected enrollment of pupils in each grade in the charter school for each year that the charter school would operate under the proposed charter contract.

7. The procedure for applying for enrollment in the proposed charter school, which must include, without limitation, the proposed dates for accepting applications for enrollment in each year of operation under the proposed charter contract and a statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 388A.456 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

8. The academic program that the charter school proposes to use, a description of how the academic program complies with the requirements of NRS 388A.366, the proposed academic calendar for the first year of operation and a sample daily schedule for a pupil in each grade served by the charter school.

9. A description of the proposed instructional design of the charter school and the type of learning environment the charter school will provide, including, without limitation, whether the charter school will provide a program of distance education, the planned class size and structure, the proposed curriculum for the charter school and the teaching methods that will be used at the charter school.

10. The manner in which the charter school plans to identify and serve the needs of pupils with disabilities, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils.

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

12. Any uniform or dress code policy that the charter school plans to use.

13. Plans and timelines for recruiting and enrolling students, including procedures for any lottery for admission that the charter school plans to conduct.

14. The rules of behavior and punishments that the charter school plans to adopt pursuant to NRS 388A.495, including, without limitation, any unique discipline policies for pupils enrolled in a program of special education.

15. A chart that clearly presents the proposed organizational structure of the charter school and a clear description of the roles and responsibilities of the governing body, administrators and any other persons included on the chart and a table summarizing the decision-making responsibilities of the staff and governing body of the charter school and, if applicable, the charter management organization that operates the charter school. The table must also identify the person responsible for each activity conducted by the charter school, including, without limitation, the person responsible for establishing curriculum and culture, providing professional development to employees of the charter school and making determinations concerning the staff of the charter school.

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

17. The manner in which the governing body of the charter school will be chosen.

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

19. Plans for recruiting administrators, teachers and other staff, providing professional development to such staff.

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

21. Explanations of any partnerships or contracts central to the operations or mission of the charter school.

22. A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

23. The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.680 and 391.725. If the procedure is different from the procedure prescribed in NRS 391.680 and 391.725, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.680 and 391.725.

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

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

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

27. A description of the financial plan and policies to be used by the charter school.

28. A description of the insurance coverage the charter school will obtain.

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

30. Evidence of any money pledged or contributed to the budget of the charter school.

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

32. If the charter school ~~[is]~~ *operates* a vocational school, a description of the career and technical education program that will be used by the charter school.

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

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

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

(c) Conduct parent-teacher conferences; and

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

34. If the charter school will provide a program where a student may earn college credit for courses taken in high school, a draft memorandum of understanding between the charter school and the college or university through which the credits will be earned and a term sheet, which must set forth:

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

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

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

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

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

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

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

36. If the applicant proposes to contract with an educational management organization or any other person to provide educational or management services:

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

(b) A term sheet that sets forth:

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

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

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

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

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

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

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

37. Any additional information that the sponsor determines is necessary to evaluate the ability of the proposed charter school to serve pupils in the school district in which the proposed charter school will be located.

Sec. 21. NRS 388A.249 is hereby amended to read as follows:

388A.249 1. A committee to form a charter school or charter management organization may submit the application to the proposed sponsor of the charter school. Except as otherwise provided in NRS 388B.290, if an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.

2. The proposed sponsor of a charter school shall, in reviewing an application to form a charter school:

(a) Assemble a team of reviewers, which may include, without limitation, natural persons from different geographic areas of the United States who possess the appropriate knowledge and expertise with regard to the academic, financial and organizational experience of charter schools, to review and evaluate the application;

(b) Conduct a thorough evaluation of the application, which includes an in-person interview with the applicant designed to elicit any necessary clarifications or additional information about the proposed charter school and

determine the ability of the applicants to establish a high-quality charter school;

(c) Base its determination on documented evidence collected through the process of reviewing the application; and

(d) Adhere to the policies and practices developed by the proposed sponsor pursuant to subsection 2 of NRS 388A.223.

3. The proposed sponsor of a charter school may approve an application to form a charter school only if the proposed sponsor determines that:

(a) The application:

(1) Complies with this chapter and the regulations applicable to charter schools; and

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

(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection 2 of NRS 388A.223 that will likely result in a successful opening and operation of the charter school.

4. *The identity of each member of the team of reviewers assembled by a proposed sponsor of a charter school is confidential for 5 years after the review of an application to form a charter school is complete and must not be disclosed unless ordered by a district court in an action brought pursuant to subsection 3 of NRS 388A.255.*

5. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Public Charter School Authority, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 388A.270 is hereby amended to read as follows:

388A.270 1. If the proposed sponsor of a charter school approves an application to form a charter school, it shall, before June 11, 2013, grant a written charter to the governing body of the charter school or, on or after June 11, 2013, negotiate, *develop* and execute a charter contract with the governing body of the charter school. A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:

(a) The performance framework for the charter school;

(b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and

(c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. The charter contract must be signed by a member of the governing body of the charter school and:

(a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;

(b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or

(c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The sponsor of the charter school shall, not later than 10 days after the execution of the charter contract, provide to the Department:

(a) Written notice of the charter contract and the date of execution; and

(b) A copy of the charter contract and any other documentation relevant to the charter contract.

5. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

6. If the State Public Charter School Authority approves the application:

(a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board, the State Public Charter School Authority nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

7. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

8. A written charter or a charter contract, as applicable, must be for a term of 6 years. The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the

charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.

Sec. 24. NRS 388A.330 is hereby amended to read as follows:

388A.330 Except as otherwise provided in NRS 388A.300:

1. Except as otherwise provided in subsection 6, the sponsor of a charter school may reconstitute the governing body of a charter school, revoke a written charter or terminate a charter contract before the expiration of the charter if the sponsor determines that:

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

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

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

(3) Failed to comply with the provisions of this chapter 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;

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

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

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

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

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria prescribed by regulation by the Department to measure the performance of any public school ~~[.]~~ *pursuant to the statewide system of accountability for public schools.*

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

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

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

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

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

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

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

5. If the governing body of a charter school is reconstituted, the written charter is revoked or the charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the reconstitution, revocation or termination, as applicable, not later than 10 days after reconstituting the governing body, revoking the written charter or terminating the charter contract.

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

7. If the sponsor of a charter school determines that not all of the grade levels in the charter school meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and that the charter school can remain

financially viable if the charter school continues to operate and serve only the grade levels which do not meet the criteria described in those paragraphs, the sponsor may amend the written charter or charter contract, as applicable, to eliminate the grade levels that meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and limit the enrollment in all other grade levels in the charter school.

Sec. 24.5. NRS 388A.330 is hereby amended to read as follows:

388A.330 Except as otherwise provided in NRS 388A.300:

1. Except as otherwise provided in subsection 6, the sponsor of a charter school may reconstitute the governing body of a charter school, revoke a written charter or terminate a charter contract before the expiration of the charter if the sponsor determines that:

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

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

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

(3) Failed to comply with the provisions of this chapter 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;

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

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

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

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

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria

prescribed by regulation by the Department to measure the performance of any public school pursuant to the statewide system of accountability for public schools.

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

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

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

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

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

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

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

5. If the governing body of a charter school is reconstituted, the written charter is revoked or the charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the reconstitution, revocation or termination, as applicable, not later than 10 days after reconstituting the governing body, revoking the written charter or terminating the charter contract.

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

7. If the sponsor of a charter school determines that not all of the grade levels in the charter school meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and that the charter school can remain financially viable if the charter school continues to operate and serve only the grade levels which do not meet the criteria described in those paragraphs, the sponsor may amend the ~~[written charter or]~~ charter contract ~~[, as applicable,]~~ to eliminate the grade levels that meet the criteria described in paragraphs (a) to (g), inclusive, of subsection 1 and limit the enrollment in all other grade levels in the charter school.

Sec. 25. NRS 388A.453 is hereby amended to read as follows:

388A.453 1. An application for enrollment in a charter school may be submitted annually to the governing body of the charter school by the parent or legal guardian of any child who resides in this State.

2. Except as otherwise provided in subsections 1 to 5, inclusive, NRS 388A.336 and subsections 1 and 2 of NRS 388A.456, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received.

3. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located.

4. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district.

5. Except as otherwise provided in subsections 1 and 2 of NRS 388A.456, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to subsections 1 to 4, inclusive, on the basis of a lottery system.

6. Except as otherwise provided in subsection 9, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

(a) Race;
(b) Gender;
(c) Religion;
(d) Ethnicity; or
(e) Disability,

➥ of a pupil.

7. A lottery held pursuant to subsection 5 must be held not sooner than 45 days after the date on which a charter school begins accepting applications

for enrollment unless the sponsor of the charter school determines there is good cause to hold it sooner.

8. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

9. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk ~~[.]~~ *or, for a charter school that is eligible to be rated using the alternative performance framework pursuant to subsection 4 of NRS 385A.740, who are described in subparagraphs (1) to (6), inclusive, of paragraph (a) of subsection 3 of NRS 385A.740.*

➥ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 25.5. NRS 388A.456 is hereby amended to read as follows:

388A.456 1. Before a charter school enrolls pupils who are eligible for enrollment pursuant to NRS 388A.453, a charter school may enroll a child who:

(a) Is a sibling of a pupil who is currently enrolled in the charter school.

(b) Was enrolled, free of charge and on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school.

(c) Is a child of a person:

(1) Who is employed by the charter school;

(2) Who is a member of the committee to form the charter school;

(3) Who is a member of the governing body of the charter school; or

(4) Who resides on or is employed on the federal military installation, if the charter school is located on a federal military installation;

(d) *Is enrolled at a charter school with which the charter school has an articulation agreement, approved by the sponsor, providing for priority enrollment.*

(e) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category.

~~[(e)]~~ *(f)* At the time his or her application is submitted, is enrolled in a public school of a school district with an enrollment that is more than

25 percent over the public school's intended capacity, as reported on the list maintained by the school district pursuant to subsection 4. If a charter school enrolls pupils who are enrolled in such a public school before enrolling other pupils who are eligible for enrollment, the charter school must enroll such pupils who reside within 2 miles of the charter school before enrolling other such pupils.

~~[(f)]~~ *(g)* At the time his or her application is submitted, is enrolled in a public school that received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools for the immediately preceding school year. If a charter school enrolls pupils who are enrolled in such a public school before enrolling other pupils who are eligible for enrollment, the charter school must enroll such pupils who reside within 2 miles of the charter school before enrolling other such pupils.

~~[(g)]~~ *(h)* Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

2. If more pupils described in this section who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this section on the basis of a lottery system.

3. A lottery held pursuant to subsection 2 must be held not sooner than 45 days after the date on which a charter school begins accepting applications for enrollment unless the sponsor of the charter school determines there is good cause to hold it sooner.

4. Each school district shall create and maintain a list which specifies for each public school of the school district, the maximum enrollment capacity for each school, the actual number of pupils enrolled at each school and the percentage by which enrollment at each school exceeds the intended enrollment capacity, if applicable. Each school district shall post the list on the Internet website maintained by the school district as soon as practicable after the count of pupils is completed pursuant to NRS 387.1223 but not later than November 1 of each year.

Sec. 26. NRS 388A.518 is hereby amended to read as follows:

388A.518 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers who provide instruction at a charter school must be highly qualified. If a charter school ~~[is]~~ *operates* 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 highly qualified, but

in no event may less than 50 percent of the teachers who provide instruction at the school be highly qualified.

2. If a charter school specializes in:

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

(b) The construction industry or other building industry, teachers *at the school who are employed full-time* must ~~[be highly qualified]~~ *hold a license issued by the Superintendent of Public Instruction which contains an endorsement* to teach courses of study relating to ~~[the]~~ *business and* industry. ~~[if those teachers are employed full-time.~~

~~(c) The construction industry or other building industry and the school offers courses of study in computer education, technology or business, teachers must be highly qualified 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 be highly qualified. For the purposes of this subsection, a person is not "initially hired" if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

4. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, be highly qualified if the teacher teaches one or more of the following subjects:

(a) English language arts;

(b) Mathematics;

(c) Science;

(d) A foreign or world language;

(e) Civics or government;

(f) Economics;

(g) Geography;

(h) History; or

(i) The arts.

5. Except as otherwise provided in NRS 388A.515, a charter school may employ a person who is not highly qualified to teach a course of study for which a teacher is not required to be highly qualified if the person has:

(a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and

(b) At least 2 years of experience in that field.

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

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

(a) If employed by a charter school that has not received, within the immediately preceding 2 consecutive school years, one of the three highest

ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher ~~[:~~

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

~~(2) Is]~~ *is* licensed to teach pursuant to chapter 391 of NRS.

(b) If employed by a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher ~~[meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable,]~~ *holds a bachelor's degree or a graduate degree from an accredited college or university and has demonstrated expertise in the subject area for which the teacher provides instruction on an assessment approved by the Department, in consultation with sponsors of charter schools described in this paragraph,* regardless of whether the teacher is licensed to teach pursuant to chapter 391 of NRS.

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

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

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

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, *388A.249*, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,

710.159, 711.600, *and section 5 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. 30. Section 4 of this act is hereby amended to read as follows:

Sec. 4. 1. ~~[A written charter issued by the sponsor of a charter school to the governing body of the charter school is not assignable or transferable and may not be delegated to a third party.~~

~~2.]~~ A charter contract entered into between the governing body of a charter school and the sponsor of the charter school is not assignable or transferable and may not be delegated to a third party.

~~[3.]~~ *2.* A ~~[written charter or]~~ charter contract may not be used as security for any loan and shall be deemed to have no monetary value.

~~[4.]~~ *3.* For the purpose of this section, an amendment to a ~~[written charter or]~~ charter contract which consolidates two or more charter schools, the restart of a charter school pursuant to NRS 388A.300 and the reconstitution of the governing body of a charter school pursuant to

NRS 388A.330 do not constitute the assignment, transfer or delegation of a ~~[written charter or]~~ charter contract.

Sec. 31. (Deleted by amendment.)

Sec. 32. Section 6 of this act is hereby amended to read as follows:

Sec. 6. 1. Except as otherwise provided by federal law, a parent or legal guardian of a pupil enrolled in a charter school, a pupil who is at least 18 years of age enrolled in a charter school, a member of the governing body of a charter school or an employee of a charter school may file a written complaint relating to that charter school with the State Public Charter School Authority which alleges a violation of the provisions of this chapter, the ~~[written charter or]~~ charter contract of the charter school or any other provision of law or regulation relating to the management or operation of the charter school.

2. Upon receipt of a complaint filed pursuant to subsection 1, the State Public Charter School Authority shall investigate the allegations contained within the complaint, conduct a review to determine whether the charter school has complied with the provisions of this chapter, the ~~[written charter or]~~ charter contract and respond in writing to the complaining party within 30 days after receipt of the complaint. The staff of the charter school and any other person named in the complaint shall cooperate with the State Public Charter School Authority during such an investigation.

Sec. 33. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If the State Public Charter School Authority determines that external expertise is necessary to conduct an investigation of a complaint filed pursuant to sections 5.5 to 10, inclusive, of this act, the State Public Charter School Authority may select an investigator to conduct the investigation and make any appropriate determinations or recommendations to the State Public Charter School Authority.

2. If the State Public Charter School Authority determines that a violation has occurred, the State Public Charter School Authority may petition a court of competent jurisdiction for an order directing the charter school to reimburse the State Public Charter School Authority for all or part of the actual costs of its investigation. If the court confirms that a violation has occurred, the court may order the charter school to reimburse the State Public Charter School Authority for all or part of the actual costs of its investigation in an amount the court determines to be reasonable under the circumstances. A charter school subject to such an order must reimburse the State Public Charter School Authority within 30 days after issuance of the order. Any money received by the State Public Charter School Authority pursuant to this subsection must be used for investigations, audits and other proceedings of the State Public Charter School Authority and does not revert to the State General Fund.

3. If the State Public Charter School Authority determines that a current or former member of the governing body of the charter school or a current or former employee of the charter school failed to cooperate with any investigation conducted pursuant to this section, the State Public Charter School Authority may begin a proceeding to ~~[revoke the written charter or]~~ terminate the charter contract of the charter school pursuant to NRS 388A.330.

4. If the State Public Charter School Authority determines that the charter school or an employee of the charter school has violated any provision of this chapter or another statute or regulation applicable to charter schools or has materially breached the terms and conditions of the ~~[written charter or]~~ charter contract of the charter school, the State Public Charter School Authority may:

(a) Begin a proceeding to ~~[revoke the written charter or]~~ terminate the charter contract of the charter school pursuant to NRS 388A.330; and

(b) Refer the matter to the district attorney of the county in which the charter school is located, the Attorney General or any other appropriate agency for further action.

5. If the State Public Charter School Authority determines that the current operations of the charter school pose an imminent danger to the health and safety of the pupils or staff of the charter school, the State Public Charter School Authority shall order the charter school to suspend its operations at any or all of its facilities until appropriate corrective action has been taken.

Sec. 34. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a charter school wishes to be rated using the alternative performance framework prescribed by the State Board pursuant to NRS 385A.730, the governing body of the charter school may submit to the sponsor of the charter school a request to amend the ~~[written charter or]~~ charter contract ~~[, as applicable,]~~ of the charter school pursuant to NRS 388A.276 to include the mission statement and admissions policy required by subsection 4 of NRS 385A.740.

2. The sponsor of a charter school may require that:

(a) A request to amend a ~~[written charter or]~~ charter contract described in subsection 1 also include such changes to the academic program, organizational plan and financial model of the charter school as the sponsor of the charter school determines are necessary for a charter school rated using the alternative performance framework; and

(b) A charter school which submits a request to amend a ~~[written charter or]~~ charter contract described in subsection 1 perform such actions as the sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework.

3. The sponsor of a charter school shall evaluate a request to amend a ~~[written charter or]~~ charter contract described in subsection 1 by reviewing the academic, organizational and financial performance of the charter school. If the sponsor of the charter school determines that the charter school is unlikely to achieve academic, organizational or financial success if the request to amend its ~~[written charter or]~~ charter contract is approved, the sponsor of the charter school must deny the request.

4. Unless invited to do so by the sponsor of the charter school, the governing body of a charter school whose request to amend its ~~[written charter or]~~ charter contract is denied pursuant to subsection 3 may not submit a materially similar request for 1 year after the denial of its request.

5. If a proposed sponsor of a charter school approves an application to form a charter school and the proposed sponsor of the charter school determines that the charter school has a mission statement and an admissions policy which satisfy the requirements of subsection 4 of NRS 385A.740, the proposed sponsor of the charter school shall include language in the charter contract entered into with the charter school which provides that:

(a) Except as otherwise provided in paragraph (b), the proposed sponsor of the charter school will submit an application to the State Board on behalf of the charter school for the charter school to be rated using the alternative performance framework within 2 years after the charter school commences operation;

(b) The proposed sponsor of the charter school will submit the application described in paragraph (a) only upon the successful completion by the charter school of such actions as the proposed sponsor of the charter school determines to be necessary to successfully transition to being rated using the alternative performance framework; and

(c) Upon approval of such an application by the State Board, the performance framework adopted by the proposed sponsor of the charter school will be replaced by the alternative performance framework.

Sec. 34.5. Section 11.5 of this act is hereby amended to read as follows:

Sec. 11.5. 1. A charter school shall mail a written notification to the parent or legal guardian of each pupil enrolled in the charter school and post a notice prominently on the Internet website of the charter school within 5 business days after:

(a) The Department reports that the graduation rate of the charter school for that school year was less than 67 percent;

(b) The Department reports that the charter school was rated in the lowest 5 percent of public schools in the State pursuant to the statewide system of accountability for public schools;

(c) The Department reports that the charter school received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools;

(d) The governing body of the charter school submits to the sponsor of the charter school a written request for an amendment of the ~~[written charter or]~~ charter contract of the charter school which would result in the:

(1) Relocation of the charter school to a location more than 1 mile from its current location;

(2) Closure of a campus of the charter school or the elimination of one or more grade levels; or

(3) Reduction of enrollment as a result of an academic, financial or organizational issue;

(e) The sponsor of the charter school issues a notice of intent to ~~[revoke the written charter or]~~ terminate the charter contract of the charter school; or

(f) The sponsor of the charter school ~~[revokes the written charter or]~~ terminates the charter contract of the charter school.

2. Within 10 days after a charter school provides all notices required by subsection 1, the charter school shall certify compliance with that subsection to the sponsor of the charter school.

3. A written notice provided to a parent or legal guardian pursuant to subsection 1 must include a list of other public schools to which a pupil may transfer if the charter school closes or adopts changes which a parent or legal guardian finds unacceptable.

4. Within 30 days after a charter school provides the notice required by subsection 1 and on a date determined by the sponsor of the charter school, the charter school shall hold a public hearing to discuss a plan to correct any issue which caused the issuance of such a notice and to solicit suggestions to improve the performance of the charter school.

Sec. 34.6. Section 12.3 of this act is hereby amended to read as follows:

Sec. 12.3. 1. The governing body of a charter school that receives one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools may submit a written request for the sponsor of the charter school to authorize the establishment of an experimental academic program or new school model in the charter school. If the sponsor of the charter school approves the request, such a program or model must be established in the charter school. Enrollment in such a program or model:

(a) Must not exceed 50 pupils during the first year in which the program or model is in operation.

(b) Must not exceed 100 pupils during the second year in which the program or model is in operation.

(c) Must not exceed 150 pupils during the third year in which the program or model is in operation.

(d) Must not exceed any number prescribed by the sponsor of the charter school during the fourth year in which the program or model is in operation, or any year thereafter.

2. If an experimental academic program or new school model established pursuant to subsection 1 receives one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, the governing body of the charter school in which the program or model is established may:

(a) Submit to the sponsor of the charter school a written request for an amendment of the ~~[written charter or]~~ charter contract ~~[, as applicable,]~~ to divide the charter school into multiple charter schools operating under the same governing body; or

(b) Establish a committee to form a charter school and submit to a proposed sponsor an application to form a charter school using the experimental academic program or new school model.

3. If the sponsor of a charter school grants a request for an amendment of the ~~[written charter or]~~ charter contract submitted pursuant to subsection 2, the sponsor shall negotiate and execute a charter contract with the governing body of the charter school for each experimental academic program or new school model.

4. Before a charter school formed pursuant to this section enrolls any pupil who is eligible for enrollment pursuant to NRS 388A.453 and 388A.456, the charter school may enroll a child who was enrolled in the experimental academic program or new school model before the charter school was formed.

Sec. 34.7. Section 1 of Senate Bill No. 132 of this session is hereby amended to read as follows:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall, and the governing body of each charter school that operates as a high school and is in good standing with its sponsor may, adopt a policy to authorize the establishment of individual graduation plans for pupils enrolled in a high school within the school district or operated by the charter school, as applicable, who:

(a) Are deficient in credits and not likely to graduate according to schedule;

(b) Have performed poorly on the college and career readiness assessment administered pursuant to NRS 390.610; or

(c) Have attended or will attend school in another country as a foreign exchange student for at least one semester.

2. In addition to the conditions set forth in paragraphs (a), (b) and (c) of subsection 1, the Superintendent of Public Instruction may establish other conditions for a pupil to be eligible for an individual graduation plan.

3. An individual graduation plan must establish an academic plan for a pupil to allow the pupil to graduate with a standard high school diploma not later than 3 semesters after the date on which the pupil was otherwise scheduled to graduate. The individual graduation plan must include any conditions to which a pupil must agree to comply to remain enrolled in the high school. Such conditions may include, without limitation, any subjects that must be completed, the minimum number of units of credit in which the pupil must enroll each semester, the minimum grade point average that must be maintained by the pupil and any other conditions necessary to ensure that the pupil makes adequate progress to obtain a standard high school diploma within the time allowed.

4. The Superintendent of Public Instruction shall make a determination each year concerning:

(a) The number of credits by which a pupil must be deficient to be eligible for an individual graduation plan;

(b) The maximum score on the college and career readiness assessment administered pursuant to NRS 390.610 that a pupil may receive to be eligible for an individual graduation plan; and

(c) Any other conditions that must be met for participation in an individual graduation plan.

5. An individual graduation plan may be withdrawn by the school district or charter school if the pupil is not making adequate progress as outlined in the individual graduation plan or for other good cause.

6. A pupil for whom an individual graduation plan has been established must be counted when calculating the graduation rates of pupils in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate until the pupil obtains a standard high school diploma and then must be counted for the appropriate year as determined by the Department pursuant to subsection 8.

7. A pupil for whom an individual graduation plan has been established must not be counted when calculating the graduation rates of pupils used to determine whether the sponsor of a charter school may take certain actions concerning the charter school pursuant to NRS 388A.330.

8. If a pupil for whom an individual graduation plan has been established:

(a) Obtains a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having received a standard high school diploma when calculating the graduation rates of pupils for the purposes of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil graduates.

(b) Fails to obtain a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having failed to receive a standard high school diploma when calculating the graduation rates of pupils for the purpose of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate pursuant to his or her individual graduation plan.

9. Any pupil for whom an individual graduation plan has been established who receives a score on the college and career readiness assessment that is less than the score prescribed by the Superintendent of Public Instruction pursuant to paragraph (b) of subsection 4 must, unless his or her individual graduation plan provides otherwise, enroll in the maximum number of units of credit per semester allowed by the public school in which the pupil is enrolled.

10. For the purposes of this section, a charter school *for which the governing body has been reconstituted, the written charter revoked or the charter contract terminated or restarted in accordance with NRS 388A.285, 388A.300 or 388A.330, as applicable,* shall *not* be deemed to be in good standing ~~[if:~~

~~(a) The]~~ *unless the* charter school is carrying out an improvement plan approved by the sponsor of the charter school ~~[; or~~

~~(b) The charter school:~~

~~(1) Operates as a high school;~~

~~(2) Has a graduation rate that is more than 60 percent; and~~

~~(3) Is not rated in the lowest 5 percent of high schools in this State in pupil achievement and school performance as determined by the Department pursuant to the statewide system of accountability for public schools.]~~ *and incorporated into the written charter or charter contract, as applicable.*

Sec. 34.8. Senate Bill No. 132 of this session is hereby amended by adding thereto a new section to read as follows:

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall, and the governing body of each charter school that operates as a high school and is in good standing with its sponsor may, adopt a policy to authorize the establishment of individual graduation plans for pupils enrolled in a high school within the school district or operated by the charter school, as applicable, who:

(a) Are deficient in credits and not likely to graduate according to schedule;

(b) Have performed poorly on the college and career readiness assessment administered pursuant to NRS 390.610; or

(c) Have attended or will attend school in another country as a foreign exchange student for at least one semester.

2. In addition to the conditions set forth in paragraphs (a), (b) and (c) of subsection 1, the Superintendent of Public Instruction may establish other conditions for a pupil to be eligible for an individual graduation plan.

3. An individual graduation plan must establish an academic plan for a pupil to allow the pupil to graduate with a standard high school diploma not later than 3 semesters after the date on which the pupil was otherwise scheduled to graduate. The individual graduation plan must include any conditions to which a pupil must agree to comply to remain enrolled in the high school. Such conditions may include, without limitation, any subjects that must be completed, the minimum number of units of credit in which the pupil must enroll each semester, the minimum grade point average that must be maintained by the pupil and any other conditions necessary to ensure that the pupil makes adequate progress to obtain a standard high school diploma within the time allowed.

4. The Superintendent of Public Instruction shall make a determination each year concerning:

(a) The number of credits by which a pupil must be deficient to be eligible for an individual graduation plan;

(b) The maximum score on the college and career readiness assessment administered pursuant to NRS 390.610 that a pupil may receive to be eligible for an individual graduation plan; and

(c) Any other conditions that must be met for participation in an individual graduation plan.

5. An individual graduation plan may be withdrawn by the school district or charter school if the pupil is not making adequate progress as outlined in the individual graduation plan or for other good cause.

6. A pupil for whom an individual graduation plan has been established must be counted when calculating the graduation rates of pupils in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board

pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate until the pupil obtains a standard high school diploma and then must be counted for the appropriate year as determined by the Department pursuant to subsection 8.

7. A pupil for whom an individual graduation plan has been established must not be counted when calculating the graduation rates of pupils used to determine whether the sponsor of a charter school may take certain actions concerning the charter school pursuant to NRS 388A.330.

8. If a pupil for whom an individual graduation plan has been established:

(a) Obtains a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having received a standard high school diploma when calculating the graduation rates of pupils for the purposes of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil graduates.

(b) Fails to obtain a standard high school diploma within the time allowed by the individual graduation plan, the pupil must be counted as having failed to receive a standard high school diploma when calculating the graduation rates of pupils for the purpose of NRS 388A.330, if applicable, in the annual report of accountability for the school district or charter school in which the pupil is enrolled pursuant to NRS 385A.070 and the annual report of accountability prepared by the State Board pursuant to NRS 385A.400 for the year in which the pupil was scheduled to graduate pursuant to his or her individual graduation plan.

9. Any pupil for whom an individual graduation plan has been established who receives a score on the college and career readiness assessment that is less than the score prescribed by the Superintendent of Public Instruction pursuant to paragraph (b) of subsection 4 must, unless his or her individual graduation plan provides otherwise, enroll in the maximum number of units of credit per semester allowed by the public school in which the pupil is enrolled.

10. For the purposes of this section, a charter school for which the governing body has been reconstituted ~~[, the written charter revoked]~~ or the charter contract terminated or restarted in accordance with NRS 388A.285, 388A.300 or 388A.330, as applicable, shall not be deemed to be in good standing unless the charter school is carrying out an improvement plan approved by the sponsor of the charter school and incorporated into the ~~[written charter or]~~ charter contract . ~~[, as applicable.]~~

Sec. 34.9. Section 4 of Senate Bill No. 132 of this session is hereby amended to read as follows:

Sec. 4. ~~[This]~~

1. This section and sections 1, 2 and 3 of this act ~~[becomes]~~ become effective on July 1, 2018.

2. Section 3.5 of this act becomes effective on January 1, 2020.

Sec. 35. The governing body of each charter school formed on or before June 30, 2017, shall submit a request to its sponsor to amend its written charter or charter contract pursuant to NRS 388A.276 to include the policy for accepting, investigating and responding to complaints required by section 10 of this act on or before September 1, 2017.

Sec. 35.5. 1. The Legislative Committee on Education shall study issues relating to the deeming of a charter school as a local educational agency, as defined in 20 U.S.C. § 7801(30)(a), during the 2017-2019 interim.

2. The study must include, without limitation, an examination of the effects of section 12.7 of this act on the charter schools selected pursuant to subsection 1 of that section.

3. On or before February 1, 2019, the Legislative Committee on Education shall submit the report of its findings and any recommendations to the Director of the Legislative Counsel Bureau for transmission to the 80th Session of the Nevada Legislature.

Sec. 36. 1. This section and sections 1, 3 to 17, inclusive, 19, 20, 22, 23, 24, 25 to 29, inclusive, ~~[and]~~ 35 and 35.5 of this act become effective on July 1, 2017.

2. Sections 34.7, 34.8 and 34.9 of this act become effective on July 1, 2017, if, and only if, Senate Bill No. 132 of this session is enacted by the Legislature and becomes effective.

3. Sections 12.7 and 15.5 of this act expire by limitation on June 30, 2019.

4. Sections 2, 18, 21, 24.5 and 30 to ~~[34, 34.5,]~~ 34.6, inclusive, of this act become effective on January 1, 2020.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 1088 to Assembly Bill No. 49 enables a charter school to be eligible for the alternative school performance framework; provides that all information submitted to a charter school sponsor or prospective sponsor is subject to the public-records law; clarifies the persons who may file a complaint against a charter school; prescribes the process and guidelines for the reimbursement of investigation costs to the charter school authority; clarifies the process for partial closure of a multi-level charter school; allows high-performing charter schools to pursue innovative pilot programs and a limited pilot of charter schools to function as their own local education agency; and makes other changes to the charter school statute.

Amendment adopted.

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

Assembly Bill No. 69.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 1129.

SUMMARY—Revises provisions relating to autonomous vehicles. (BDR 43-246)

AN ACT relating to transportation; revising requirements for the testing or operation of an autonomous vehicle on a highway within this State; authorizing the ~~[testing and]~~ use of driver-assistive platooning technology; authorizing the use of a fully autonomous vehicle to provide transportation services in certain circumstances by persons licensed by the Department of Motor Vehicles, Nevada Transportation Authority or Taxicab Authority; providing for the regulation of autonomous vehicle network companies; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Motor Vehicles to adopt regulations authorizing the operation of autonomous vehicles on highways within this State. (NRS 482A.100) Existing law also provides certain requirements which must be met before an autonomous vehicle is tested or operated on a highway within this State. (NRS 482A.060-482A.080) Section 5.6 of this bill prohibits a local government from imposing a tax, fee or other requirement on an automated driving system or autonomous vehicle. Section 5.8 of this bill requires a person responsible for the testing of an autonomous vehicle to report certain crashes to the Department. Section 6 of this bill authorizes the Department to impose an administrative fine for violations of laws and regulations relating to autonomous vehicles. Section 8 of this bill allows a fully autonomous vehicle to be tested or operated on a highway within this State with the automated driving system engaged and without a human operator if the vehicle is capable of achieving a minimal risk condition upon a failure of its automated driving system. Section 9 of this bill allows an autonomous vehicle or fully autonomous vehicle to be tested or ~~[used]~~ operated on a highway within this State if the vehicle satisfies certain requirements relating to safety if an automated driving system fails. Section 9.5 of this bill extends immunity from liability for damages caused by modifications by ~~[a]~~ an unauthorized third party to the original manufacturer or developer of an automated driving system. Section 10 of this bill authorizes the Department to adopt certain regulations relating to autonomous vehicles. ~~[Sections 5.2 and]~~ Section 5.4 of this bill ~~[provide for]~~ authorizes the ~~[testing and]~~ use of driver-assistive platooning technology within this State. Section 11.7 of this bill excludes a vehicle using driver-assistive platooning technology from the provisions of law prohibiting the driver of a vehicle from following another vehicle too closely. Section 11.5 of this bill defines the term "driver" for the purposes of the traffic laws of this State to include the owner of a fully autonomous vehicle and the person who causes the automated driving system of any other autonomous vehicle to engage.

Existing law requires: (1) each person operating as a common, contract or private motor carrier in this State to obtain a license from the Department of Motor Vehicles; (2) each person who engages in the taxicab business in certain counties to hold a certificate of public convenience and necessity issued by the Public Service Commission of Nevada before July 1, 1981, or by the Taxicab Authority; and (3) each person who engages in the business of a transportation network company in this State to hold a permit issued by the Nevada Transportation Authority. (NRS 706.491, 706.881, 706.8827, 706A.110) Sections 14.2-14.9 of this bill provide for the permitting by the Nevada Transportation Authority of autonomous vehicle network companies and the regulation by the Authority of the provision of transportation services using fully autonomous vehicles in a manner generally consistent with the regulation of transportation network companies by the Authority. Section 14.24 of this bill defines an "autonomous vehicle network company" as an entity that, for compensation, connects a passenger to a fully autonomous vehicle to provide transportation services. ~~[or transports goods using a fully autonomous vehicle.]~~ Sections 14.03-14.09 of this bill impose an excise tax on the connection of a passenger to a fully autonomous vehicle for the purpose of providing transportation services in a manner generally consistent with similar excise taxes imposed on connections by common motor carriers, taxicabs and transportation network companies. Section 14.9 of this bill requires an autonomous vehicle network company to maintain insurance for the payment of tort liabilities arising from the operation of a fully autonomous vehicle to provide transportation services. Sections 21 and 31 of this bill require the Nevada Transportation Authority and the Taxicab Authority, respectively, to authorize a common motor carrier or contract motor carrier or a certificate holder to use one or more fully autonomous vehicles in certain circumstances. Section 54 of this bill provides that a transportation network company may obtain a permit to operate an autonomous vehicle network company.

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

Section 1. Chapter 482A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *"Driver-assistive platooning technology" means ~~[a combination of vehicle automation, safety technology, sensor arrays, vehicle-to-vehicle communication systems and specialized software that allows for the safety systems, acceleration and braking of]~~ technology which enables two or more trucks or other motor vehicles to ~~[be linked while traveling]~~ travel on a highway ~~[.]~~ at electronically coordinated speeds in a unified manner at a following distance that is closer than would be reasonable and prudent without the use of the technology. The term does not include an automated driving system.*

Sec. 2.3. *"Dynamic driving task" means all of the real-time operational and tactical functions required to operate an autonomous vehicle in traffic*

on a highway. The term does not include functions relating to planning for the use of the vehicle, including, without limitation, the scheduling of a trip or the selection of a destination or waypoint.

Sec. 2.5. *"Fully autonomous vehicle" means a vehicle equipped with an automated driving system which is designed to function at a level of driving automation of level 4 or 5 pursuant to SAE J3016.*

Sec. 2.7. *"Minimal risk condition" means a condition in which an autonomous vehicle operating without a human driver, upon experiencing a failure of its automated driving system that renders the autonomous vehicle unable to perform the dynamic driving task, achieves a reasonably safe state which may include, without limitation, bringing the autonomous vehicle to a complete stop.*

Sec. 3. *"Operational design domain" means a description of the specific domain or domains in which an automated driving system is designed to properly operate, including, without limitation, types of roadways, ranges of speed and environmental conditions.*

Sec. 4. *"SAE J3016" means the document published by SAE International on September 30, 2016, as "Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles ~~[."]~~ " or a document determined by the Department to be a subsequent version which is approved by the Department by regulation.*

Sec. 5. (Deleted by amendment.)

Sec. 5.2. ~~[*1. The Department may adopt regulations authorizing the testing of driver-assistive platooning technology on a truck or other motor vehicle within this State.*~~

~~*2. The regulations adopted pursuant to subsection 1 may:*~~

~~*(a) Set forth requirements that a truck or other motor vehicle which uses driver-assistive platooning technology must meet before it may be operated on a highway within this State;*~~

~~*(b) Set forth requirements for the insurance that is required to test a truck or other motor vehicle which uses driver-assistive platooning technology on a highway within this State; and*~~

~~*(c) Exempt a truck or other motor vehicle which uses driver-assistive platooning technology from the application of such motor vehicle laws or traffic laws of this State as the Department determines would allow for the safe testing of the technology.]~~ (Deleted by amendment.)

Sec. 5.4. *A truck or other motor vehicle may use driver-assistive platooning technology on a highway within this State only if the truck or other motor vehicle and the driver-assistive platooning technology ~~[:~~*

~~*1. Are]~~ *are capable of being operated in compliance with the applicable motor vehicle laws and traffic laws of this State ~~[; or~~*

~~*2. If]~~ , *unless the truck or other motor vehicle has been granted an exemption by the Department . ~~[pursuant to regulations adopted pursuant to section 5.2 of this act, is capable of being operated in compliance with the~~*

~~*applicable motor vehicle laws and traffic laws of this State other than laws for which the truck or other motor vehicle has been granted an exemption.]*~~

Sec. 5.6. *1. Notwithstanding any other provision of law and except as otherwise provided in this chapter, only the Department may adopt regulations or impose any requirement relating to the technology of an automated driving system or autonomous vehicle, and any such regulations adopted, ordinance enacted or requirement imposed by another governmental entity or local government is void.*

2. A local government shall not impose any tax or fee or impose any other requirement on an automated driving system or autonomous vehicle or on a person who operates an autonomous vehicle.

Sec. 5.8. *Any person responsible for the testing of an autonomous vehicle shall report to the Department, within 10 business days after a motor vehicle crash, any motor vehicle crash involving the testing of the autonomous vehicle which results in personal injury or property damage estimated to exceed $750. The Department shall prescribe by regulation the information which must be included in such a report.*

Sec. 6. *1. The Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter or any regulation adopted pursuant thereto.*

2. In addition to any other penalty provided by this chapter, it is a gross misdemeanor for any person knowingly to falsify an application to obtain a license for an autonomous vehicle certification facility or any other document submitted to or issued by the Department pursuant to this chapter.

Sec. 7. NRS 482A.010 is hereby amended to read as follows:

482A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 482A.025, 482A.030 and 482A.040 *and sections 2 to 4, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 7.3. NRS 482A.025 is hereby amended to read as follows:

482A.025 ~~["Autonomous technology" means technology which is installed on a motor vehicle and which has the capability to drive the motor vehicle without the active control or monitoring of a human operator. The term does not include an active safety system or a system for driver assistance, including, without limitation, a system to provide electronic blind spot detection, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keeping assistance, lane departure warning, or traffic jam and queuing assistance, unless any such system, alone or in combination with any other system, enables the vehicle on which the system is installed to be driven without the active control or monitoring of a human operator.]~~ *"Automated driving system" has the meaning ascribed to it in SAE J3016.*

Sec. 7.5. NRS 482A.030 is hereby amended to read as follows:

482A.030 "Autonomous vehicle" means a motor vehicle that is equipped with ~~[autonomous technology.]~~ *an automated driving system which is*

designed to function at a level of driving automation of level 3, 4 or 5 pursuant to SAE J3016. The term includes a fully autonomous vehicle.

Sec. 7.7. NRS 482A.060 is hereby amended to read as follows:

482A.060 Before a person ~~[or entity]~~ begins testing an autonomous vehicle on a highway within this State, the person ~~[or entity]~~ must:

1. Submit to the Department proof of insurance or self-insurance acceptable to the Department in the amount of $5,000,000; or

2. Make a cash deposit or post and maintain a surety bond or other acceptable form of security with the Department in the amount of $5,000,000.

Sec. 8. NRS 482A.070 is hereby amended to read as follows:

482A.070 ~~[If]~~

1. Except as otherwise provided in subsection 2, if an autonomous vehicle is being tested *or operated* on a highway within this State, a human operator must be:

~~[1.]~~ *(a)* Seated in a position which allows the human operator to take immediate manual control of the autonomous vehicle;

~~[2. Monitoring the safe operation of the autonomous vehicle; and~~

~~3.]~~ *and*

(b) Capable of taking over immediate manual control of the autonomous vehicle in the event of a failure of the ~~[autonomous technology]~~ *automated driving system* or other emergency.

2. A fully autonomous vehicle may be tested or operated on a highway within this State with the automated driving system engaged and without a human operator being present within the fully autonomous vehicle if the fully autonomous vehicle satisfies the requirements of paragraph (b) of subsection 2 of NRS 482A.080.

Sec. 9. NRS 482A.080 is hereby amended to read as follows:

482A.080 1. An autonomous vehicle shall not be registered in this State unless the autonomous vehicle ~~[meets all federal standards and regulations that are applicable to a motor vehicle.]~~ *has affixed to it a label pursuant to 49 C.F.R. § 567.4.*

2. ~~[An]~~ *Except as otherwise provided in subsection 3, an* autonomous vehicle shall not be tested or operated ~~*[used]*~~ on a highway within this State *with a human operator* unless the autonomous vehicle is ~~[:]~~ *capable of operating in compliance with the applicable motor vehicle laws and traffic laws of this State, unless an exemption has been granted by the Department, and:*

(a) *If the autonomous vehicle is not a fully autonomous vehicle, the autonomous vehicle is:*

(1) Equipped with a means to engage and disengage the ~~[autonomous technology]~~ *automated driving system* which is easily accessible to the human operator of the autonomous vehicle;

~~[(b)]~~ *(2)* Equipped with ~~[a visual]~~ *an* indicator located inside the autonomous vehicle which indicates when ~~[autonomous technology]~~ *the automated driving system* is operating the autonomous vehicle;

~~[(c)]~~ *and*

(3) Equipped with a means to alert the human operator to take manual control of the autonomous vehicle if a failure of the ~~[autonomous technology has been detected and such failure affects the ability of the autonomous technology to operate safely the autonomous vehicle; and~~

~~(d) Capable of being operated in compliance with the applicable motor vehicle laws and traffic laws of this State.]~~ *automated driving system occurs which renders the automated driving system unable to perform the dynamic driving task relevant to its intended operational design domain; and*

(b) If the autonomous vehicle is a fully autonomous vehicle, the fully autonomous vehicle is capable of achieving a minimal risk condition if a failure of the automated driving system occurs which renders the automated driving system unable to perform the dynamic driving task relevant to its intended operational design domain.

3. If a federal law or regulation provides standards for the operation of an autonomous vehicle, an autonomous vehicle may be tested or used on a highway within this State with a human operator if the autonomous vehicle is capable of operating in compliance with the applicable motor vehicle laws and traffic laws of this State and such a federal law or regulation.

Sec. 9.5. NRS 482A.090 is hereby amended to read as follows:

482A.090 *1.* The *original* manufacturer of a motor vehicle that has been converted by a third party into an autonomous vehicle is not liable for damages to any person injured due to a defect caused by the conversion of the motor vehicle ~~[or by any equipment installed to facilitate the conversion]~~ *by the third party* unless the defect that caused the injury was present in the vehicle as originally manufactured.

2. The original manufacturer or developer of an automated driving system that has been modified by ~~[a]~~ an unauthorized third party is not liable for damages to any person injured due to a defect caused by the modification of the automated driving system by the third party unless the defect that caused the injury was present in the automated driving system as originally manufactured or developed.

Sec. 10. NRS 482A.100 is hereby amended to read as follows:

482A.100 1. The Department ~~[shall]~~ *may* adopt regulations ~~[authorizing]~~ *relating to* the operation *and testing* of autonomous vehicles on highways within the State of Nevada ~~[.]~~ *which are consistent with this chapter and do not impose additional requirements upon the operation and testing of autonomous vehicles.*

2. *A regulation adopted pursuant to subsection 1 shall not become effective until at least 180 days after the regulation is adopted by the Department.*

3. The regulations ~~[required to be]~~ adopted ~~[by]~~ *pursuant to* subsection 1 ~~[must:]~~ *may:*

(a) ~~[Set forth requirements]~~ *Require* that an autonomous vehicle ~~[must meet]~~ *or automated driving system be certified to comply with the requirements of this chapter by ~~[its]~~ the manufacturer of the autonomous vehicle, the manufacturer or developer of the automated driving system or an autonomous vehicle certification facility licensed pursuant to paragraph (c)* before it may be operated on a highway within this State;

(b) ~~[Set forth requirements for the insurance that is required to test or operate an autonomous vehicle on a highway within this State;]~~ *Include provisions relating to license plates for and the registration of autonomous vehicles and the licensing and training of drivers that do not conflict with this chapter or unreasonably impede the testing and operation of autonomous vehicles in this State; and*

(c) ~~[Establish minimum safety standards for autonomous vehicles and their operation;~~

~~(d) Provide for the testing of autonomous vehicles;~~

~~(e) Restrict the testing of autonomous vehicles to specified geographic areas; and~~

~~(f) Set forth such other requirements as the Department determines to be necessary.]~~ *Provide for the licensing of autonomous vehicle certification facilities.*

Sec. 11. NRS 482A.200 is hereby amended to read as follows:

482A.200 ~~[The Department shall by regulation establish a driver's license endorsement for the operation of an autonomous vehicle on the highways of this State. The driver's license endorsement described in this section must, in its restrictions or lack thereof, recognize the fact that a person is not required to actively drive an autonomous vehicle.]~~ *No motor vehicle laws or traffic laws of this State shall be construed to require a human driver to operate a fully autonomous vehicle which is being operated by an automated driving system. The automated driving system of a fully autonomous vehicle shall, when engaged, be deemed to fulfill any physical acts which would otherwise be required of a human driver except those acts which by their nature can have no application to such a system.*

Sec. 11.5. NRS 484A.080 is hereby amended to read as follows:

484A.080 ~~["Driver"]~~

1. Except as otherwise provided in subsection 2, "driver" means every person who drives or is in actual physical control of a vehicle.

2. If a vehicle is an autonomous vehicle, as defined in NRS 482A.030, and the automated driving system, as defined in NRS 482A.025, of the autonomous vehicle is engaged, "driver" means a person who causes the automated driving system of the autonomous vehicle to engage.

3. If a vehicle is a fully autonomous vehicle, as defined in section 2.5 of this act, and the automated driving system, as defined in NRS 482A.025, of the fully autonomous vehicle is engaged, "driver" does not include a natural

person who causes the automated driving system of the fully autonomous vehicle to engage unless the natural person is the owner of the fully autonomous vehicle.

Sec. 11.7. NRS 484B.127 is hereby amended to read as follows:

484B.127 1. The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

2. The driver of any truck or combination of vehicles 80 inches or more in overall width, which is following a truck, or combination of vehicles 80 inches or more in overall width, shall, whenever conditions permit, leave a space of 500 feet so that an overtaking vehicle may enter and occupy such space without danger, but this shall not prevent a truck or combination of vehicles from overtaking and passing any vehicle or combination of vehicles. This subsection does not apply to any vehicle or combination of vehicles while moving on a highway on which there are two or more lanes available for traffic moving in the same direction.

3. Motor vehicles being driven upon any highway outside of a business district in a caravan or motorcade, whether or not towing other vehicles, shall be operated to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle or combination of vehicles to enter and occupy such space without danger.

4. This section does not apply to a vehicle which is using driver-assistive platooning technology, as defined in section 2 of this act.

Sec. 12. NRS 484B.165 is hereby amended to read as follows:

484B.165 1. Except as otherwise provided in this section, a person shall not, while operating a motor vehicle on a highway in this State:

(a) Manually type or enter text into a cellular telephone or other handheld wireless communications device, or send or read data using any such device to access or search the Internet or to engage in nonvoice communications with another person, including, without limitation, texting, electronic messaging and instant messaging.

(b) Use a cellular telephone or other handheld wireless communications device to engage in voice communications with another person, unless the device is used with an accessory which allows the person to communicate without using his or her hands, other than to activate, deactivate or initiate a feature or function on the device.

2. The provisions of this section do not apply to:

(a) A paid or volunteer firefighter, emergency medical technician, advanced emergency medical technician, paramedic, ambulance attendant or other person trained to provide emergency medical services who is acting within the course and scope of his or her employment.

(b) A law enforcement officer or any person designated by a sheriff or chief of police or the Director of the Department of Public Safety who is acting within the course and scope of his or her employment.

(c) A person who is reporting a medical emergency, a safety hazard or criminal activity or who is requesting assistance relating to a medical emergency, a safety hazard or criminal activity.

(d) A person who is responding to a situation requiring immediate action to protect the health, welfare or safety of the driver or another person and stopping the vehicle would be inadvisable, impractical or dangerous.

(e) A person who is licensed by the Federal Communications Commission as an amateur radio operator and who is providing a communication service in connection with an actual or impending disaster or emergency, participating in a drill, test, or other exercise in preparation for a disaster or emergency or otherwise communicating public information.

(f) An employee or contractor of a public utility who uses a handheld wireless communications device:

(1) That has been provided by the public utility; and

(2) While responding to a dispatch by the public utility to respond to an emergency, including, without limitation, a response to a power outage or an interruption in utility service.

3. The provisions of this section do not prohibit the use of a voice-operated global positioning or navigation system that is affixed to the vehicle.

4. A person who violates any provision of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense within the immediately preceding 7 years, shall pay a fine of $50.

(b) For the second offense within the immediately preceding 7 years, shall pay a fine of $100.

(c) For the third or subsequent offense within the immediately preceding 7 years, shall pay a fine of $250.

5. A person who violates any provision of subsection 1 may be subject to any additional penalty set forth in NRS 484B.130 or 484B.135.

6. The Department of Motor Vehicles shall not treat a first violation of this section in the manner statutorily required for a moving traffic violation.

7. For the purposes of this section, a person shall be deemed not to be operating a motor vehicle if the motor vehicle is driven autonomously ~~[through the use of artificial intelligence software]~~ and the autonomous operation of the motor vehicle is authorized by law.

8. As used in this section:

(a) "Handheld wireless communications device" means a handheld device for the transfer of information without the use of electrical conductors or wires and includes, without limitation, a cellular telephone, a personal digital assistant, a pager and a text messaging device. The term does not include a device used for two-way radio communications if:

(1) The person using the device has a license to operate the device, if required; and

(2) All the controls for operating the device, other than the microphone and a control to speak into the microphone, are located on a unit which is used to transmit and receive communications and which is separate from the microphone and is not intended to be held.

(b) "Public utility" means a supplier of electricity or natural gas or a provider of telecommunications service for public use who is subject to regulation by the Public Utilities Commission of Nevada.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 14.01. Chapter 372B of NRS is hereby amended by adding thereto the provisions set forth as sections 14.03 and 14.05 of this act.

Sec. 14.03. *"Autonomous vehicle network company" has the meaning ascribed to it in section 14.24 of this act.*

Sec. 14.05. *1. In addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the use of a dispatch center, software application or other digital means by an autonomous vehicle network company to connect a passenger to a fully autonomous vehicle for the purpose of providing transportation services at the rate of 3 percent of the total fare charged for transportation services, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The Department shall charge and collect from each autonomous vehicle network company the excise tax imposed by this subsection.*

2. The excise tax collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of NRS 372B.170.

3. As used in this section, "fully autonomous vehicle" has the meaning ascribed to it in section 2.5 of this act.

Sec. 14.07. NRS 372B.010 is hereby amended to read as follows:

372B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 372B.020 to 372B.090, inclusive, *and section 14.03 of this act* have the meanings ascribed to them in those sections.

Sec. 14.09. NRS 372B.070 is hereby amended to read as follows:

372B.070 "Taxpayer" means *:* ~~[a:]~~

1. ~~[Common]~~ *An autonomous vehicle network company;*

2. A common motor carrier of passengers;

~~[2. Taxicab;]~~

3. A taxicab; or

~~[3. Transportation]~~

4. A transportation network company.

Sec. 14.1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 14.2 to 14.9, inclusive, of this act.

Sec. 14.2. *As used in this chapter unless the context otherwise requires, the words and terms defined in sections 14.22 to 14.28, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 14.22. *"Authority" means the Nevada Transportation Authority.*

Sec. 14.24. *"Autonomous vehicle network company" or "company" means an entity that, for compensation* ~~*[:*~~

~~*1. Connects]*~~ *, connects a passenger to a fully autonomous vehicle which can provide transportation services to the passenger* ~~*. [; or*~~

~~*2. Transports goods from one location to another using a fully autonomous vehicle.]*~~

Sec. 14.26. *"Fully autonomous vehicle" has the meaning ascribed to it in section 2.5 of this act.*

Sec. 14.28. *"Transportation services" means the transportation of one or more passengers between points chosen by the passenger or passengers* ~~*[or of goods between points chosen by a customer]*~~ *using a fully autonomous vehicle. The term includes only the period beginning when a company accepts a request to provide transportation for one or more passengers* ~~*[or goods]*~~ *using a fully autonomous vehicle and ending when all of the* ~~*[goods or]*~~ *passengers fully disembark from the fully autonomous vehicle.*

Sec. 14.3. *The provisions of this chapter do not apply to:*

1. Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.27495.

2. A person who provides a method to enable persons who are interested in sharing expenses for transportation to a destination, commonly known as carpooling, to connect with each other, regardless of whether a fee is charged by the person who provides the method.

Sec. 14.33. *1. Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.*

2. An autonomous vehicle network company which holds a valid permit issued by the Authority pursuant to this chapter and each fully autonomous vehicle operated by such a company are exempt from:

(a) The provisions of chapter 704 of NRS relating to public utilities; and

(b) The provisions of chapters 706 and 706A of NRS,

➥ *to the extent that the services provided by the company are within the scope of the permit.*

Sec. 14.37. *1. The Authority shall adopt such regulations as are necessary to carry out the provisions of this chapter.*

2. The regulations adopted by the Authority pursuant to this section must not conflict with or regulate any matter described in chapter 482A of NRS.

Sec. 14.5. *1. An autonomous vehicle network company shall not engage in business in this State unless the company holds a valid permit issued by the Authority pursuant to this chapter.*

2. The Authority is authorized and empowered to regulate, pursuant to the provisions of this chapter, all autonomous vehicle network companies who operate or wish to operate within this State. The Authority shall not apply any provision of chapter 706 of NRS to an autonomous vehicle network company who operates, or a fully autonomous vehicle operated by a company, within the provisions of this chapter and the regulations adopted pursuant thereto.

3. A person who is regulated pursuant to chapter 706 of NRS and who holds a valid permit issued pursuant to subsection 1 may apply to the Authority for a permit to use autonomous vehicles to provide transportation services. A person who holds a permit to use autonomous vehicles to provide transportation services:

(a) May combine the operations of an autonomous vehicle network company and a business regulated pursuant to chapter 706 of NRS; and

(b) Must comply with all requirements of this chapter and chapter 706 of NRS which apply to such combined operations.

4. Nothing in this chapter prohibits a company from collaborating to provide transportation services with any other person authorized to provide such services pursuant to this chapter or chapter 706 or 706A of NRS.

Sec. 14.53. *A person who desires to operate an autonomous vehicle network company in this State must submit to the Authority an application for the issuance of a permit to operate an autonomous vehicle network company. The application must be in the form required by the Authority and must include such information as the Authority, by regulation, determines is necessary to prove the person meets the requirements of this chapter for the issuance of a permit.*

Sec. 14.55. *1. Upon receipt of a completed application and upon a determination by the Authority that an applicant meets the requirements for the issuance of a permit to operate an autonomous vehicle network company, the Authority shall issue to the applicant within 30 days a permit to operate an autonomous vehicle network company in this State.*

2. In accordance with the provisions of this chapter, a permit issued pursuant to this section:

(a) Authorizes an autonomous vehicle network company to use a dispatch center, software application or other digital means to connect passengers to a fully autonomous vehicle which can provide transportation services to the passenger . ~~*[or to arrange for the transportation of goods using a fully autonomous vehicle.]*~~

(b) Does not authorize an autonomous vehicle network company to engage in any activity otherwise regulated pursuant to chapter 706 or 706A of NRS other than the activity authorized by this chapter.

3. Nothing in this chapter prohibits the issuance of a permit to operate an autonomous vehicle network company to a person who is regulated pursuant to chapter 706 or 706A of NRS if the person submits an application pursuant to section 14.53 of this act and meets the requirements for the issuance of a permit.

Sec. 14.57. *1. The Authority shall charge and collect a fee, in an amount established by the Authority by regulation, from each applicant for a permit to operate an autonomous vehicle network company in this State. The fee required by this subsection is not refundable. The Authority shall not issue a permit to operate an autonomous vehicle network company in this State unless the applicant has paid the fee required by this subsection.*

2. For each year after the year in which the Authority issues a permit to an autonomous vehicle network company, the Authority shall levy and collect an annual assessment from the autonomous vehicle network company at a rate determined by the Authority based on the gross operating revenue derived from the intrastate operations of the autonomous vehicle network company in this State.

3. The annual assessment levied and collected by the Authority pursuant to subsection 2 must be used by the Authority for the regulation of autonomous vehicle network companies.

Sec. 14.7. *An autonomous vehicle network company shall appoint and keep in this State a registered agent as provided in NRS 14.020.*

Sec. 14.71. *1. In accordance with the provisions of this chapter, an autonomous vehicle network company which holds a valid permit issued by the Authority pursuant to this chapter may charge a fare for transportation services.*

2. If a fare is charged for transportation services provided to passengers, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:

(a) On an Internet website maintained by the company; or

(b) Within the software application or other digital means used by the company to connect passengers to fully autonomous vehicles.

3. If a fare is charged for transportation services provided to passengers, the company must offer to each passenger the option to receive, before the passenger enters the fully autonomous vehicle of the company, an estimate of the amount of the fare that will be charged to the passenger.

4. An autonomous vehicle network company may accept payment of a fare only electronically. An autonomous vehicle network company shall not solicit or accept cash as payment of a fare.

5. An autonomous vehicle network company shall not impose any additional charge for providing transportation services to a person with a physical disability because of the disability.

6. The Authority may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.

Sec. 14.72. *1. An autonomous vehicle network company shall not connect a fully autonomous vehicle to a potential passenger if the fully autonomous vehicle is not in compliance with the requirements of chapter 482A of NRS.*

2. An autonomous vehicle network company shall inspect or cause to be inspected every fully autonomous vehicle used to provide transportation services before using the fully autonomous vehicle to provide transportation services and not less than once each year thereafter.

3. The inspection required by subsection 2 must ensure the proper functioning and safety of the fully autonomous vehicle pursuant to chapter 482A of NRS and any applicable federal law or regulation.

Sec. 14.73. *1. An autonomous vehicle network company shall adopt a policy which prohibits discrimination against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.*

2. An autonomous vehicle network company shall provide to each passenger an opportunity to indicate whether the passenger requires transportation in a fully autonomous vehicle that is wheelchair accessible. If the company cannot provide the passenger with transportation services in a fully autonomous vehicle that is wheelchair accessible, the company must direct the passenger to an alternative provider or means of transportation that is wheelchair accessible, if available.

Sec. 14.74. *For each instance in which an autonomous vehicle network company uses a fully autonomous vehicle to provide transportation services to a passenger, the company shall provide to the passenger, before the passenger enters the fully autonomous vehicle, the license plate number of the fully autonomous vehicle. The information required by this section must be provided to the passenger:*

1. On an Internet website maintained by the company; or

2. Within the software application or other digital means used by the company to connect passengers to fully autonomous vehicles.

Sec. 14.75. *An autonomous vehicle network company which connected a passenger to a fully autonomous vehicle shall, within a reasonable period following the provision of transportation services to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:*

1. A description of the point of origin and the destination of the transportation services;

2. The total time for which transportation services were provided;

3. The total distance traveled; and

4. An itemization of the fare, if any, charged for the transportation services.

Sec. 14.76. *An autonomous vehicle network company may enter into a contract with any agency of the Department of Health and Human Services*

to provide assistance in transportation pursuant to the programs administered by the agency.

Sec. 14.77. *1. An autonomous vehicle network company shall maintain the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:*

(a) Trip records;

(b) Vehicle inspection records;

(c) Records of each complaint and the resolution of each complaint; and

(d) Records of each accident or other incident that involved a fully autonomous vehicle and was reported to the company.

2. Each autonomous vehicle network company shall make its records available for inspection by the Authority upon request and only as necessary for the Authority to investigate complaints. This subsection does not require a company to make any proprietary information available to the Authority. Any records provided to the Authority are confidential and must not be disclosed other than to employees of the Authority.

Sec. 14.78. *1. Each autonomous vehicle network company shall:*

(a) Keep uniform and detailed accounts of all business transacted in this State and provide such accounts to the Authority upon request;

(b) On or before May 15 of each year, provide an annual report to the Authority regarding all business conducted by the company in this State during the preceding calendar year; and

(c) Provide the information determined by the Authority to be necessary to verify the collection of money owed to the State.

2. The Authority shall adopt regulations setting forth the form and contents of the information required to be provided pursuant to subsection 1.

3. If the Authority determines that an autonomous vehicle network company has failed to include information in its accounts or the report required pursuant to subsection 1, the Authority shall notify the company to provide such information. A company which receives a notice pursuant to this subsection shall provide the specified information within 15 days after receipt of such a notice.

4. All information required to be provided pursuant to this section must be signed by an officer or agent of, or other person authorized by, the autonomous vehicle network company under oath.

Sec. 14.79. *Except as otherwise provided in this section, an autonomous vehicle network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:*

1. The disclosure is otherwise required by law;

2. The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or

3. The passenger consents to the disclosure.

Sec. 14.8. *Each autonomous vehicle network company shall:*

1. Provide notice of the contact information of the Authority on an Internet website maintained by the company or within the software application or other digital means used by the company to connect passengers to fully autonomous vehicles; and

2. Create a system to receive and address complaints from consumers which is available during normal business hours in this State.

Sec. 14.82. *1. Each autonomous vehicle network company shall provide to the Authority reports containing information relating to motor vehicle crashes which occurred in this State while a fully autonomous vehicle was providing transportation services. The reports required by this subsection must contain the information identified in subsection 2 and be submitted:*

(a) For all crashes that occurred during the first 6 months that the company operates within this State, not later than 7 months after the date the company was issued a permit.

(b) For all crashes that occurred during the first 12 months that the company operates within this State, not later than 13 months after the date the company was issued a permit.

2. The reports submitted pursuant to subsection 1 must include, for the period of time specified in subsection 1:

(a) The number of motor vehicle crashes which occurred in this State involving such a fully autonomous vehicle;

(b) The highest, lowest and average amount paid for bodily injury or death to one or more persons that occurred as a result of such a crash; and

(c) The highest, lowest and average amount paid for damage to property that occurred as a result of such a crash.

3. Except as otherwise provided in this subsection, any records provided to the Authority are confidential and must not be disclosed other than to employees of the Authority. The Authority shall collect the reports submitted by autonomous vehicle network companies pursuant to subsection 1 and determine whether the limits of coverage required pursuant to section 14.9 of this act are sufficient. The Authority shall submit a report stating whether the limits of coverage required pursuant to section 14.9 of this act are sufficient and containing the information, in an aggregated format which does not reveal the identity of any person, submitted by autonomous vehicle network companies pursuant to subsection 1 since the last report of the Authority pursuant to this subsection:

(a) To the Legislative Commission on or before December 1 of each odd-numbered year.

(b) To the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before December 1 of each even-numbered year.

Sec. 14.84. *1. With respect to a passenger's destination when using a fully autonomous vehicle provided by the company, an autonomous vehicle network company shall not:*

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger's destination than is necessary, unless specifically requested to do so by the passenger.

2. The Authority shall not consider any action taken by a fully autonomous vehicle which is consistent with its operational design domain, as defined in section 3 of this act, or technological capabilities as a violation of subsection 1.

3. As used in this section, "longer route to the passenger's destination" means any route other than that which would result in the lowest fare to the passenger.

Sec. 14.86. *1. If the Authority determines that an autonomous vehicle network company has violated the terms of a permit issued pursuant to this chapter or any other provision of this chapter or any regulations adopted pursuant thereto, the Authority may, depending on whether the violation was committed by the company or a fully autonomous vehicle used by the company, or both:*

(a) If the Authority determines that the violation is willful and endangers public safety in a manner unrelated to the provisions of chapter 482A of NRS, suspend or revoke the permit issued to the company;

(b) If the Authority determines that the violation is willful and endangers public safety in a manner unrelated to the provisions of chapter 482A of NRS, impose against the company an administrative fine in an amount not to exceed $100,000 per violation; or

(c) Impose any combination of the penalties provided in paragraphs (a) and (b).

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (c) of subsection 1, the Authority shall consider:

(a) The size of the company;

(b) The severity of the violation;

(c) Any good faith efforts by the company to remedy the violation;

(d) The history of previous violations by the company; and

(e) Any other factor that the Authority determines to be relevant.

3. Notwithstanding the provisions of NRS 193.170, a person who violates any provision of this chapter is not subject to any criminal penalty for such a violation.

Sec. 14.88. *1. Except as otherwise provided in subsection 2, a local governmental entity shall not:*

(a) Impose any tax or fee on an autonomous vehicle network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter or a fully autonomous vehicle used by such a company to provide transportation services.

(b) Require an autonomous vehicle network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope.

(c) Impose any other requirement upon an autonomous vehicle network company which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.

2. Nothing in this section:

(a) Prohibits a local governmental entity from requiring an autonomous vehicle network company to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibits an airport or its governing body from requiring an autonomous vehicle network company to:

(1) Obtain a permit or certification to operate at the airport;

(2) Pay a fee to operate at the airport; or

(3) Comply with any other requirement to operate at the airport.

(c) Exempts a fully autonomous vehicle used by a company from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS.

Sec. 14.9. *Each autonomous vehicle network company shall maintain insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS, procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, or a program of self-insurance which meets criteria established by the Authority in an amount of $1,500,000 or more for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while providing transportation services using a fully autonomous vehicle pursuant to this chapter.*

Sec. 15. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 34, inclusive, of this act.

Sec. 16. (Deleted by amendment.)

Sec. 17. *"Fully autonomous vehicle" has the meaning ascribed to it in section 2.5 of this act.*

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. *1. The Authority shall authorize a common motor carrier or contract motor carrier to use one or more fully autonomous vehicles to transport passengers if:*

~~[1.]~~ *(a) The fully autonomous vehicles comply with the provisions of chapter 482A of NRS and the regulations adopted pursuant thereto;*

~~[2.]~~ *(b) The motor carrier holds a permit issued pursuant to section 14.55 of this act as an autonomous vehicle network company and a permit to use autonomous vehicles to provide transportation services pursuant to section 14.5 of this act; and*

~~[3.]~~ *(c) The fully autonomous vehicles will comply with the requirements of NRS 706.011 to 706.791, inclusive, and sections 16 to 25, inclusive, of this act, and any regulations adopted pursuant thereto.*

2. A common motor carrier or contract motor carrier may use one or more fully autonomous vehicles to transport property if the fully autonomous vehicles:

(a) Comply with the provisions of chapter 482A of NRS and the regulations adopted pursuant thereto; and

(b) Will comply with the applicable requirements of NRS 706.011 to 706.791, inclusive, and sections 16 to 25, inclusive, of this act, and any regulations adopted pursuant thereto.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. *"Fully autonomous vehicle" has the meaning ascribed to it in section 2.5 of this act.*

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. *The Taxicab Authority shall authorize a certificate holder to use one or more fully autonomous vehicles if:*

1. The fully autonomous vehicles comply with the provisions of chapter 482A of NRS and the regulations adopted pursuant thereto;

2. The certificate holder holds a permit issued pursuant to section 14.55 of this act as an autonomous vehicle network company and a permit to use autonomous vehicles to provide transportation services pursuant to section 14.5 of this act; and

3. The fully autonomous vehicles will comply with the requirements of sections 706.881 to 706.885, inclusive, and sections 26 to 34, inclusive, of this act, and any regulations adopted pursuant thereto.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 16 to 25, inclusive, of this act,* unless the context otherwise requires, the words

and terms defined in NRS 706.013 to 706.146, inclusive, *and sections 16 to 20, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 372B.160 and 706.8811 to 706.885, inclusive, *and sections 26 to 34, inclusive, of this act* apply to any county:

(a) Whose population is 700,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, *and sections 26 to 34, inclusive, of this act* within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 41. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, *and sections 26 to 34, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, *and sections 26 to 30, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. Chapter 706A of NRS is hereby amended by adding thereto the provisions set forth as sections 49 to 57, inclusive, of this act.

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. *Nothing in this chapter shall be construed to prohibit a transportation network company from obtaining a permit to act as an autonomous vehicle network company pursuant to section 14.55 of this act*

and providing, within the scope of such a permit, the services authorized by sections 14.2 to 14.9, inclusive, of this act.

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. (Deleted by amendment.)

Sec. 66. (Deleted by amendment.)

Sec. 67. (Deleted by amendment.)

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 69.3. The Department of Motor Vehicles and the Nevada Transportation Authority shall, on or before January 1, 2018, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 69.5. 1. Notwithstanding the provisions of section 14.55 of this act to the contrary and any regulation adopted by the Nevada Transportation Authority pursuant to sections 14.2 to 14.9, inclusive, of this act, the Nevada Transportation Authority shall issue a permit to operate an autonomous vehicle network company ~~[, as defined in section 14.24 of this act, which is issued a permit by the Nevada Transportation Authority pursuant to section 14.55 of this act]~~ to any person who, on or before January 1, 2018, demonstrates to the Nevada Transportation Authority that the person meets the requirements of sections 14.2 to 14.9, inclusive, of this act to operate an autonomous vehicle network company, regardless of whether such a person has submitted a completed application, and may commence operations in this State immediately upon being issued a permit.

2. Notwithstanding the effective date of any regulation adopted by the Nevada Transportation Authority pursuant to sections 14.2 to 14.9, inclusive, of this act on or before January 1, 2018, an autonomous vehicle network company issued a permit pursuant to subsection 1 must not be required to comply with the provisions of the regulation until ~~[30]~~ 180 days after the regulation is filed with the Secretary of State.

3. A permit issued pursuant to subsection 1 expires on the date 180 days after a regulation adopted by the Nevada Transportation Authority to carry out the provisions of sections 14.2 to 14.9, inclusive, of this act is filed with the Secretary of State. If a person who holds such a permit wishes to continue to operate an autonomous vehicle network company, the person must apply

for and be issued a permit pursuant to sections 14.2 to 14.9, inclusive, of this act and the regulations adopted pursuant thereto.

4. As used in this section, "autonomous vehicle network company" has the meaning ascribed to it in section 14.24 of this act.

Sec. 69.7. 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. 70. This act becomes effective upon passage and approval.

Senator Farley moved the adoption of the amendment.

Remarks by Senator Farley.

Amendment No. 1129 to Assembly Bill No. 69 adds federal preemption language; amends the definition of and certain provisions related to "Driver-assistive platooning technology;" allows for certification of an automated driving system by various methods; clarifies when a common or contract motor carrier of passengers or property may use an autonomous vehicle, and allows for testing and operations of autonomous vehicles between passage of this bill and adoption of regulations. After the adoption of regulations, it allows for a period of 180 days for testing and operations to come into compliance with adopted regulations.

Amendment adopted.

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

Assembly Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1111.

SUMMARY—Revises various provisions relating to guardianships. (BDR 13-524)

AN ACT relating to guardianships; authorizing a court to require a proposed guardian to file a proposed preliminary care plan and budget; establishing the process by which a person may obtain the approval of the court for the payment of attorney's fees and costs from the assets of a ward; establishing the State Guardianship Compliance Office; replacing the term "incompetent" with the term "incapacitated" for purposes of guardianships and revising the definition thereof; revising various provisions relating to notice given to certain persons; revising provisions concerning the sale of real and personal property of a ward; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines the term "incompetent" for purposes of the provisions of law governing guardianships. (NRS 159.019) Section 7 of this bill replaces the term "incompetent" with the term "incapacitated" and revises the definition thereof. Sections 5, 6, 11, 12-17, 20, 22, 35 and 36-43 of this bill make conforming changes.

Existing law generally requires a petitioner in a guardianship proceeding to give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to certain persons, including any minor ward who is 14 years of age or older. (NRS 159.034) Section 8 of this bill revises this

requirement and requires that notice be given to any ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.

Existing law provides that after the filing of a petition in a guardianship proceeding, the clerk is required to issue a citation setting forth a time and place for the hearing and directing certain persons to appear and show cause why a guardian should not be appointed for the proposed ward. (NRS 159.047) Section 9 of this bill requires a copy of the petition to be served together with the citation on certain persons, including a proposed ward who is 14 years of age or older, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition, and section 10 of this bill requires that the proposed ward be served by personal service. Section 9 also requires a person who serves notice upon the proposed ward to file with the court an affidavit stating that notice was served.

Existing law requires a guardian of the person to file with the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian at certain specified times. (NRS 159.081) Section 18 of this bill requires that such a report be served on the ward.

Section 21 of this bill requires the guardian of the estate and the guardian of the person to be notified if the ward is a party to any criminal action. Section 23 of this bill requires that notice be given to a ward upon the filing of certain petitions or any account.

Existing law establishes various provisions concerning transactions involving real and personal property of a ward, including the sale of such property. (NRS 159.127-159.175) Sections 24-31 of this bill revise certain provisions concerning the sale of real property of a ward, and section 44 of this bill repeals provisions of law relating to a public auction for the sale of real property. Sections 32-34 of this bill revise provisions concerning the sale of personal property of a ward. Section 32 of this bill authorizes a guardian to: (1) sell or dispose of personal property of a ward that has a total value of less than $10,000 if certain notice is given and no objection to the sale or disposal is received; and (2) authorize the immediate destruction of personal property of a ward without notice in certain circumstances. Section 33 of this bill requires that notice of a sale of the personal property of a ward be given to a ward who is 14 years of age or older and certain other persons and, if the gross value of the estate of the ward is $10,000 or more, published in a newspaper before a guardian may sell the personal property of a ward.

Section 2 of this bill specifies that upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget, the format of which and the timing of the filing thereof must be specified by a court rule approved by the Supreme Court.

Section 3 of this bill provides that any person who retains an attorney for the purposes of representing a party in a guardianship proceeding is personally liable for any attorney's fees and costs incurred, but authorizes such a person to petition the court for an order authorizing the payment of such attorney's fees and costs from the estate of the ward. Section 3 prohibits such attorney's fees and costs from being paid from the estate of the ward without court approval and establishes the process by which a person is able to obtain the approval of the court. Section 3 also authorizes an attorney who is appointed by the court to seek compensation for his or her services from the guardianship estate in accordance with the established process. Section 3 additionally provides that if two or more parties in a guardianship proceeding file competing petitions for the appointment of a guardian or otherwise litigate any contested issue in the guardianship proceeding, only the prevailing party may petition the court for the payment of attorney's fees and costs. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid.

Section 4 of this bill establishes the State Guardianship Compliance Office. Section 4 provides that the State Guardianship Compliance Officer is appointed by the Supreme Court and serves at the pleasure of the Court. Section 4 also authorizes the State Guardianship Compliance Officer to hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardian proceedings. Section 43.5 of this bill appropriates money to the Nevada Supreme Court to pay the costs of the State Guardianship Compliance Office.

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *Upon the filing of a petition for the appointment of a guardian, the court may require a proposed guardian to file a proposed preliminary care plan and budget. The format of such a proposed preliminary care plan and budget and the timing of the filing thereof must be specified by a rule approved by the Supreme Court.*

Sec. 3. *1. Any person, including, without limitation, a guardian or proposed guardian, who retains an attorney for the purposes of representing a party in a guardianship proceeding is personally liable for any attorney's fees and costs incurred as a result of such representation.*

2. Notwithstanding the provisions of subsection 1 and except as otherwise provided in subsection 5 of NRS 159.183, a person who is personally liable for attorney's fees and costs may petition the court for an order authorizing such attorney's fees and costs to be paid from the estate of the ward in accordance with this section. Any such attorney's fees and costs must not be paid from the guardianship estate unless and until the court authorizes the payment pursuant to this section.

3. When a person who intends to petition the court for payment of attorney's fees and costs from the guardianship estate first appears in the guardianship proceeding, the person must file written notice of his or her intent to seek payment of attorney's fees and costs from the guardianship estate. The written notice:

(a) Must provide a general explanation of the compensation arrangement and how compensation will be computed;

(b) Must include the hourly billing rates of all timekeepers, including, without limitation, attorneys, law clerks and paralegals;

(c) Must provide a general explanation of the reasons why the services of the attorney are necessary to further the best interests of the ward;

(d) Must be served by the person on all persons entitled to notice pursuant to NRS 159.034 and 159.047; and

(e) Is subject to approval by the court after a hearing.

4. If written notice was filed and approved by the court pursuant to subsection 3, a person may file with the court a petition requesting payment of attorney's fees and costs from the guardianship estate. Such a petition must include the following information:

(a) A detailed statement as to the nature and extent of the services performed by the attorney;

(b) An itemization of each task performed by the attorney, with reference to the time spent on each task in an increment to the nearest one-tenth of an hour and with no minimum billing unit in excess of one-tenth of an hour;

(c) An indication of whether any time billed, including, without limitation, any time spent traveling or waiting, benefited any clients of the attorney other than the ward and, if so, how many other clients benefited from such time; and

(d) Any other information considered relevant to a determination of whether attorney's fees are just, reasonable and necessary.

➥ Absent approval from all parties who have appeared in the proceeding, any supplemental requests for the payment of attorney's fees and costs cannot be augmented in open court and must be properly noticed in the same manner as the underlying petition requesting payment.

5. In determining whether attorney's fees are just, reasonable and necessary, the court may consider all the following factors:

(a) The written notice approved by the court pursuant to subsection 3.

(b) Whether the services conferred any actual benefit upon the ward or attempted to advance the best interests of the ward.

(c) The qualities of the attorney, including, without limitation, his or her ability, training, education, experience, professional standing and skill.

(d) The character of the work performed, including, without limitation, the difficulty, intricacy and importance of the work, the time and skill required to complete the work, the responsibility imposed and the nature of the proceedings.

(e) The work actually performed by the attorney, including, without limitation, the skill, time and attention given to the work.

(f) The result of the work, including, without limitation, whether the attorney was successful and any benefits that were derived.

(g) The usual and customary fees charged in the relevant professional communities for each task performed, regardless of who actually performed the task. The court may only award:

(1) Compensation at an attorney rate for time spent performing services that require an attorney;

(2) Compensation at a paralegal rate for time spent performing paralegal services;

(3) Compensation at a fiduciary rate for time spent performing fiduciary services; and

(4) No compensation for time spent performing secretarial or clerical services.

(h) The appropriate apportionment among multiple clients of any billed time that benefited multiple clients of the attorney.

(i) The extent to which the services were provided in a reasonable, efficient and cost-effective manner, including, without limitation, whether there was appropriate and prudent delegation of services to others.

(j) The ability of the estate of the ward to pay, including, without limitation:

(1) The value of the estate;

(2) The nature, extent and liquidity of the assets of the estate;

(3) The disposable net income of the estate;

(4) The anticipated future needs of the ward; and

(5) Any other foreseeable expenses.

(k) The efforts made by the person and attorney to reduce and minimize any issues.

(l) Any actions by the person or attorney that unnecessarily expanded issues or delayed or hindered the efficient administration of the estate.

(m) Whether any actions taken by the person or attorney were taken for the purpose of advancing or protecting the interests of the person as opposed to the interests of the ward.

(n) Any other factor that is relevant in determining whether attorney's fees are just, reasonable and necessary, including, without limitation, any other factor that is relevant in determining whether the person was acting in good faith and was actually pursuing the best interests of the ward.

6. The court shall not approve compensation for an attorney for:

(a) Time spent on internal business activities of the attorney, including, without limitation, clerical or secretarial support; or

(b) Time reported as a total amount of time spent on multiple tasks, rather than an itemization of the time spent on each task.

7. Any fees paid by a third party, including, without limitation, a trust of which the estate is a beneficiary, must be disclosed to and approved by the court.

8. In addition to any payment provided to a person pursuant to this section for the services of an attorney, a person may receive payment for ordinary costs and expenses incurred in the scope of the attorney's representation.

9. If two or more parties in a guardianship proceeding file competing petitions for the appointment of a guardian or otherwise litigate any contested issue in the guardianship proceeding, only the prevailing party may petition the court for payment of attorney's fees and costs from the guardianship estate pursuant to this section. If the court determines that there is no prevailing party, the court may authorize a portion of each party's attorney's fees and costs to be paid from the guardianship estate if the court determines that such fees and costs are just, reasonable and necessary given the nature of any issues in dispute.

10. If an attorney is appointed by the court in a guardianship proceeding, he or she may petition the court for compensation for his or her services from the guardianship estate in accordance with the procedure set forth in this section.

Sec. 4. *1. The State Guardianship Compliance Office is hereby created.*

2. The State Guardianship Compliance Officer is:

(a) Appointed by the Supreme Court and serves at the pleasure of the Court; and

(b) Entitled to receive an annual salary set by the Supreme Court within the limits of legislative appropriations.

3. The State Guardianship Compliance Officer may hire two accountants and two investigators to provide auditing and investigative services to the district courts during the administration of guardianship proceedings.

4. The State Guardianship Compliance Officer shall not act as a guardian for any ward.

Sec. 5. NRS 159.014 is hereby amended to read as follows:

159.014 "Care provider" includes any public or private institution located within or outside this state which provides facilities for the care or maintenance of ~~[incompetents,]~~ *persons who are incapacitated,* persons of limited capacity or minors.

Sec. 6. NRS 159.015 is hereby amended to read as follows:

159.015 "Court" means any court or judge having jurisdiction of the persons and estates of minors, ~~[incompetent]~~ persons ~~[,]~~ *who are incapacitated* or persons of limited capacity.

Sec. 7. NRS 159.019 is hereby amended to read as follows:

159.019 ~~["Incompetent" means an adult]~~ *A* person ~~[who, by reason of mental illness, mental deficiency, disease, weakness of mind or any other cause,]~~ *is "incapacitated" if he or she, for reasons other than being a minor,*

is unable ~~[, without assistance, properly to manage and take care of himself or herself or his or her property, or both. The term includes a person who is mentally incapacitated.]~~ *to receive and evaluate information or make or communicate decisions to such an extent that the person lacks the ability to meet essential requirements for physical health, safety or self-care without appropriate assistance.*

Sec. 8. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on any petition filed in the guardianship proceeding to:

(a) Any ~~[minor]~~ ward who is 14 years of age or older ~~[.]~~ *, regardless of whether the ward is considered to have the capacity to understand or appreciate the contents of the petition.*

(b) The parent or legal guardian of any minor ward who is less than 14 years of age.

(c) The spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity.

(d) Any other interested person or the person's attorney who has filed a request for notice in the guardianship proceedings and has served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request and the person's name and address, or that of his or her attorney.

(e) The guardian, if the petitioner is not the guardian.

(f) Any person or care provider who is providing care for the ward, except that if the person or care provider is not related to the ward, such person or care provider must not receive copies of any inventory or accounting.

(g) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(h) The Director of the Department of Health and Human Services if the ward has received or is receiving benefits from Medicaid.

(i) Those persons entitled to notice if a proceeding were brought in the ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. Except as otherwise provided in this subsection, if none of the persons entitled to notice of a hearing on a petition pursuant to this section can, after due diligence, be served by certified mail or personal service and this fact is

proven by affidavit to the satisfaction of the court, service of the notice must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the notice must be published not later than 10 days before the date set for the hearing. If, after the appointment of a guardian, a search for relatives of the ward listed in paragraph (c) of subsection 1 fails to find any such relative, the court may waive the notice by publication required by this subsection.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 9. NRS 159.047 is hereby amended to read as follows:

159.047 1. Except as otherwise provided in NRS 159.0475 and 159.049 to 159.0525, inclusive, upon the filing of a petition under NRS 159.044, the clerk shall issue a citation setting forth a time and place for the hearing and directing the persons or care provider referred to in subsection 2 to appear and show cause why a guardian should not be appointed for the proposed ward.

2. A citation issued under subsection 1 *, together with a copy of the petition filed under NRS 159.044,* must be served upon:

(a) A proposed ward who is 14 years of age or older ~~[;]~~ *, regardless of whether the proposed ward is considered to have the capacity to understand or appreciate the contents of the citation and petition;*

(b) The spouse of the proposed ward and all other known relatives of the proposed ward who are:

(1) Fourteen years of age or older; and

(2) Within the second degree of consanguinity;

(c) The parents and custodian of the proposed ward;

(d) Any person or officer of a care provider having the care, custody or control of the proposed ward;

(e) The proposed guardian, if the petitioner is not the proposed guardian;

(f) Any office of the Department of Veterans Affairs in this State if the proposed ward is receiving any payments or benefits through the Department of Veterans Affairs; and

(g) The Director of the Department of Health and Human Services if the proposed ward has received or is receiving any benefits from Medicaid.

3. A person who serves notice upon a proposed ward pursuant to paragraph (a) of subsection 2 shall file with the court an affidavit stating that he or she served notice upon the proposed ward in accordance with the provisions of NRS 159.0475.

Sec. 10. NRS 159.0475 is hereby amended to read as follows:

159.0475 1. A copy of the citation issued pursuant to NRS 159.047 , *together with a copy of the petition filed under NRS 159.044,* must be served *:* ~~[by:]~~

(a) *Except as otherwise ordered by the court, on a proposed ward who is 14 years of age or older by personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing; and*

(b) On each person required to be served pursuant to NRS 159.047 other than a proposed ward by:

(1) Certified mail, with a return receipt requested, ~~[on each person required to be served pursuant to NRS 159.047]~~ at least 20 days before the hearing; or

~~[(b)]~~ *(2)* Personal service in the manner provided pursuant to N.R.C.P. 4(d) at least 10 days before the date set for the hearing . ~~[on each person required to be served pursuant to NRS 159.047.]~~

2. If none of the persons on whom the citation *and petition* is to be served can, after due diligence, be served by certified mail or personal service , *as applicable,* and this fact is proven ~~[,]~~ by affidavit ~~[,]~~ to the satisfaction of the court, service of the citation ~~*[and petition]*~~ must be made by publication in the manner provided by N.R.C.P. 4(e). In all such cases, the citation ~~*[and petition]*~~ must be published at least 20 days before the date set for the hearing.

3. A citation *and petition* need not be served on a person or an officer of the care provider who has signed the petition or a written waiver of service of *the* citation *and petition* or who makes a general appearance.

4. The court may find that notice is sufficient if:

(a) *The citation and petition have been served by personal service on the proposed ward and an affidavit of such service has been filed with the court pursuant to subsection 3 of NRS 159.047;*

(b) The citation ~~[has]~~ *and petition have* been served by certified mail, with a return receipt requested, or by personal service on the ~~[proposed ward,]~~ care provider or public guardian required to be served pursuant to NRS 159.047; and

~~[(b)]~~ *(c)* At least one relative of the proposed ward who is required to be served pursuant to NRS 159.047 has been served, as evidenced by the return receipt or the certificate of service. If the court finds that at least one relative of the proposed ward has not received notice that is sufficient, the court will require the citation ~~*[and petition]*~~ to be published pursuant to subsection 2.

Sec. 11. NRS 159.048 is hereby amended to read as follows:

159.048 The citation issued pursuant to NRS 159.047 must state that the:

1. Proposed ward may be adjudged to be ~~[incompetent]~~ *incapacitated* or of limited capacity and a guardian may be appointed for the proposed ward;

2. Proposed ward's rights may be affected as specified in the petition;

3. Proposed ward has the right to appear at the hearing and to oppose the petition; and

4. Proposed ward has the right to be represented by an attorney, who may be appointed for the proposed ward by the court if the proposed ward is unable to retain one.

Sec. 11.5. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. At the first hearing for the appointment of a guardian for a proposed adult ward, the court shall advise the proposed adult ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his or her right to counsel and determine whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding. If the proposed adult ward is not in attendance at the hearing because the proposed adult ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the proposed adult ward must be advised of his or her right to counsel pursuant to subsection 2 of NRS 159.0535.

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney shall represent the adult ward or proposed adult ward until relieved of the duty by court order.

3. Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation and expenses. Unless the court determines that the adult ward or proposed adult ward does not have the ability to pay such compensation and expenses or the court shifts the responsibility of payment to a third party, the compensation and expenses must be paid from the estate of the adult ward or proposed adult ward, unless the compensation and expenses are provided for or paid by another person or entity. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney. *Any attorney who intends to seek compensation from the estate of the adult ward or proposed adult ward must follow the procedure established in section 3 of this act.*

Sec. 12. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~[incompetents]~~ *persons who are incapacitated* or minors whose home state is this State.

2. Guardians of the person or of the person and estate for ~~[incompetents]~~ *persons who are incapacitated* or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident ~~[incompetents]~~ *persons who are incapacitated* or nonresident minors who have property within this State.

4. Special guardians.

5. Guardians ad litem.

Sec. 13. NRS 159.054 is hereby amended to read as follows:

159.054 1. If the court finds *that* the proposed ward ~~[competent]~~ *is not incapacitated* and *is* not in need of a guardian, the court shall dismiss the petition.

2. If the court finds *that* the proposed ward ~~[to be]~~ *is* of limited capacity and *is* in need of a special guardian, the court shall enter an order accordingly and specify the powers and duties of the special guardian.

3. If the court finds that appointment of a general guardian is required, the court shall appoint a general guardian of the ward's person, estate, or person and estate.

Sec. 14. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause, within 5 business days after issuing the order, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, ~~[incompetence,]~~ *incapacitation,* condition or disease, is:

(1) A danger to himself or herself or others; or

(2) Lacks the capacity to contract or manage his or her own affairs.

Sec. 15. NRS 159.0613 is hereby amended to read as follows:

159.0613 1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation, isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;

(d) Whether the nominated person, relative or other person is ~~[incompetent]~~ *incapacitated* or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the adult.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

(2) A child.

(3) A parent.

(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

(5) Any relative currently acting as agent.

(6) A sibling.

(7) A grandparent or grandchild.

(8) An uncle, aunt, niece, nephew or cousin.

(9) Any other person recognized to be in a familial relationship with the adult.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and

(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the adult resides if:

(1) There is a public guardian in the county where the adult resides; and

(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.

(b) "Domestic partner" means a person in a domestic partnership.

(c) "Domestic partnership" means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) "Nominated person" means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate

plan and was executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while ~~[competent.]~~ *he or she was not incapacitated.*

(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 16. NRS 159.062 is hereby amended to read as follows:

159.062 A parent or spouse of ~~[an incompetent,]~~ *a* minor *, person who is incapacitated* or person of limited capacity may by will nominate a guardian. The person nominated must file a petition and obtain an appointment from the court before exercising the powers of a guardian.

Sec. 17. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed $5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. Any other interested person may also petition the court for an order authorizing or directing the guardian to take any action described in subsection 1.

3. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the court finds by clear and convincing evidence that:

(a) A reasonably prudent person or the ward, if ~~[competent,]~~ *not incapacitated*, would take the proposed action and that a person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; or

(b) The proposed action is otherwise in the best interests of the ward for any other reason not listed in this section.

4. The petition must contain, to the extent known by the petitioner:

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

5. As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

➥ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

(c) "Interested person" has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument if the validity of the trust or other instrument may be in question.

Sec. 18. NRS 159.081 is hereby amended to read as follows:

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian;

(b) Within 10 days of moving a ward to a secured residential long-term care facility; and

(c) At such other times as the court may order.

2. A report filed pursuant to paragraph (b) of subsection 1 must:

(a) Include a copy of the written recommendation upon which the transfer was made; and

(b) Be served, without limitation, on the *ward and any* attorney for the ward . ~~[, if any.]~~

3. The court may prescribe the form and contents for filing a report described in subsection 1.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

5. The court is not required to hold a hearing or enter an order regarding the report.

Sec. 19. NRS 159.085 is hereby amended to read as follows:

159.085 1. Not later than 60 days after the date of the appointment of a general or special guardian of the estate or, if necessary, such further time as the court may allow, the guardian shall make and file in the guardianship proceeding a verified inventory of all of the property of the ward which comes to the possession or knowledge of the guardian.

2. A temporary guardian of the estate who is not appointed as the general or special guardian shall file an inventory with the court by not later than the date on which the temporary guardian files a final accounting as required pursuant to NRS 159.177.

3. The guardian shall take and subscribe an oath, which must be endorsed or attached to the inventory, before any person authorized to administer oaths, that the inventory contains a true statement of:

(a) All of the estate of the ward which has come into the possession of the guardian;

(b) All of the money that belongs to the ward; and

(c) All of the just claims of the ward against the guardian.

4. *A copy of the inventory filed with the court and a notice of the filing must be served on the ward, his or her attorney and any guardian ad litem representing the ward.*

5. Whenever any property of the ward not mentioned in the inventory comes to the possession or knowledge of a guardian of the estate, the guardian shall:

(a) Make and file in the proceeding a verified supplemental inventory not later than 30 days after the date the property comes to the possession or knowledge of the guardian; or

(b) Include the property in the next accounting.

~~[5.]~~ *6.* The court may order which of the two methods described in subsection ~~[4]~~ *5* the guardian shall follow.

~~[6.]~~ *7.* The court may order all or any part of the property of the ward appraised as provided in NRS 159.0865 and 159.305.

~~[7.]~~ *8.* If the guardian neglects or refuses to file the inventory within the time required pursuant to subsection 1, the court may, for good cause shown and upon such notice as the court deems appropriate:

(a) Revoke the letters of guardianship and the guardian shall be liable on the bond for any loss or injury to the estate caused by the neglect of the guardian; or

(b) Enter a judgment for any loss or injury to the estate caused by the neglect of the guardian.

Sec. 20. NRS 159.0893 is hereby amended to read as follows:

159.0893 1. A guardian shall present a copy of the court order appointing the guardian and letters of guardianship to a bank or other financial institution that holds any account or other assets of the ward before the guardian may access the account or other assets.

2. The bank or other financial institution shall accept the copy of the court order appointing the guardian and letters of guardianship as proof of guardianship and allow the guardian access to the account or other assets of the ward, subject to any limitations set forth in the court order.

3. Unless the bank or other financial institution is a party to the guardianship proceeding, the bank or other financial institution is not entitled to a copy of any:

(a) ~~[Competency]~~ *Capacity* evaluation of the ward or any other confidential information concerning the medical condition or the placement of the ward; or

(b) Inventory or accounting of the estate of the ward.

Sec. 21. NRS 159.095 is hereby amended to read as follows:

159.095 1. A guardian of the estate shall appear for and represent the ward in all actions, suits or proceedings to which the ward is a party, unless the court finds that the interests of the guardian conflict with the interests of the ward or it is otherwise appropriate to appoint a guardian ad litem in the action, suit or proceeding.

2. Upon final resolution of the action, suit or proceeding, the guardian of the estate or the guardian ad litem shall notify the court of the outcome of the action, suit or proceeding.

3. If the person of the ward would be affected by the outcome of any action, suit or proceeding, the guardian of the person, if any, should be joined to represent the ward in the action, suit or proceeding.

4. If the ward is a party to any criminal action, the guardian of the estate and the guardian of the person must be notified of the action.

Sec. 22. NRS 159.097 is hereby amended to read as follows:

159.097 Any contract, except to the extent of the reasonable value of necessaries, and any transaction with respect to the property of a ward made

by the ward are voidable by the guardian of the estate if such contract or transaction was made at any time by the ward while ~~[an incompetent]~~ *he or she was incapacitated* or a minor.

Sec. 22.5. NRS 159.105 is hereby amended to read as follows:

159.105 1. ~~[Other than claims for attorney's fees that are subject to the provisions of subsection 3, a]~~ *A* guardian of the estate may pay from the guardianship estate the following claims without complying with the provisions of this section and NRS 159.107 and 159.109:

(a) The guardian's claims against the ward or the estate; and

(b) Any claims accruing after the appointment of the guardian which arise from contracts entered into by the guardian on behalf of the ward.

2. The guardian shall report all claims and the payment of claims made pursuant to subsection 1 in the account that the guardian makes and files in the guardianship proceeding following each payment.

~~[3. Claims for attorney's fees which are associated with the commencement and administration of the guardianship of the estate:~~

~~(a) May be made at the time of the appointment of the guardian of the estate or any time thereafter; and~~

~~(b) May not be paid from the guardianship estate unless the payment is made in compliance with the provisions of this section and NRS 159.107 and 159.109.]~~

Sec. 23. NRS 159.115 is hereby amended to read as follows:

159.115 1. ~~[Upon]~~ *Except as otherwise ordered by the court, upon* the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given *to the ward and the persons specified in NRS 159.034* in the manner prescribed by ~~[NRS 159.034.]~~ *that section.*

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

Sec. 24. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be ~~[:~~

~~(a) Reported to the court; and~~

~~(b) Confirmed]~~ *confirmed* by the court *pursuant to NRS 159.146* before *escrow closes for* the *sale and* title to the real property passes to the purchaser.

2. ~~[The report and a]~~ *A* petition for confirmation of the sale must be filed with the court not later than 30 days after the date of ~~[each]~~ *the* sale ~~[.]~~ *, which is the date on which the contract for the sale was signed.*

3. The court shall set the date of the hearing *for confirmation of the sale* and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the *sale before the hearing for confirmation of the* sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections. *The court may, in its discretion, allow oral objections to the confirmation of the sale on the date of the hearing for confirmation of the sale.*

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425 ~~[, 159.1435]~~ and 159.144, unless the sale was exempt from notice pursuant to NRS 159.123.

Sec. 25. NRS 159.1385 is hereby amended to read as follows:

159.1385 1. ~~[A]~~ *After the court has granted authority to sell real property of a ward, a* guardian may enter into a written contract with any bona fide agent, broker or multiple agents or brokers to secure a purchaser for ~~[any real]~~ *such* property . ~~[of the estate.]~~ Such a contract may grant an exclusive right to sell the property to the agent, broker or multiple agents or brokers.

2. The guardian shall provide for the payment of a commission upon the sale of the real property which:

(a) Must be paid from the proceeds of the sale;

(b) Must be fixed in an amount not to exceed:

(1) Ten percent for unimproved real property; or

(2) Seven percent for ~~[improved]~~ real property ~~[;]~~ *with any type of improvement;* and

(c) Must be authorized by the court by confirmation of the sale.

3. Upon confirmation of the sale by the court, the contract for the sale becomes binding and enforceable against the estate.

4. A guardian may not be held personally liable and the estate is not liable for the payment of any commission set forth in a contract entered into with an agent or broker pursuant to this section until the sale is confirmed by the court, and then is liable only for the amount set forth in the contract.

Sec. 26. NRS 159.1415 is hereby amended to read as follows:

159.1415 1. ~~[When an offer]~~ *Except as otherwise provided in subsection 10 of NRS 159.146, if a contract of sale* to purchase real property of a guardianship estate is presented to the court for confirmation:

(a) Other persons may submit higher bids ~~[to the]~~ *in open* court; and

(b) The court may confirm the highest bid.

2. Upon confirmation of a sale of real property by the court, the commission for the sale must be divided between the listing agent or broker and the agent or broker who secured the purchaser to whom the sale was confirmed, if any, in accordance with the contract with the listing agent or broker.

Sec. 27. NRS 159.142 is hereby amended to read as follows:

159.142 1. If a ward owns real property jointly with one or more other persons, *after the court grants authority to sell the property,* the interest owned by the ward may be sold to one or more joint owners of the property only if:

(a) *All joint owners of the property have been given notice that the court has granted the authority to sell the property;*

(b) The guardian files a petition with the court to confirm the sale pursuant to NRS 159.134; and

~~[(b)]~~ *(c)* The court confirms the sale.

2. The court shall confirm the sale only if:

(a) The net amount of the proceeds from the sale to the estate of the ward is not less than 90 percent of the fair market value of the portion of the property to be sold; and

(b) Upon confirmation, the estate of the ward will be released from all liability for any mortgage or lien on the property.

Sec. 28. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS 159.123 or 159.142, a guardian may sell the real property of a ward only after *the court grants authority for the sale pursuant to NRS 159.113 and* notice of the sale is published *:* ~~[in:]~~

(a) ~~[A]~~ *In a* newspaper that is published in the county in which the property, or some portion of the property, is located; ~~[or]~~

(b) If a newspaper is not published in ~~[that]~~ *the* county ~~[:]~~ *in which the property, or some portion of the property, is located:*

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders ~~[.]~~ *; or*

(c) On a public property listing service for a period of not less than 30 days.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS 159.123 or 159.142 ~~[:~~

~~(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~(b) The~~ *, the* notice of a ~~[private]~~ sale must be published *pursuant to paragraph (a) or (b) of subsection 1* not less than three times before the date on which ~~[offers will]~~ *the sale may* be ~~[accepted,]~~ *made,* over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a *net* value of $10,000 or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before ~~[~~:

~~(a) The date of the sale at public auction; or~~

~~(b) The~~ *the* date on *or after* which ~~[offers]~~ *an offer* will be accepted for a ~~[private]~~ sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) ~~[For a public auction:~~

~~(1) A description of the real property which reasonably identifies the property to be sold; and~~

~~(2) The date, time and location of the auction.~~

~~(b) For a private sale:~~

~~(1)]~~ A description of the real property which reasonably identifies the property to be sold; and

~~[(2)]~~ *(b)* The date, time and location ~~[that offers]~~ *on or after which an offer* will be accepted.

Sec. 29. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS 159.123 or 159.142, a sale of real property of a guardianship estate *:* ~~[at a private sale:]~~

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a ~~[private]~~ sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time ~~[~~:

~~(1) After]~~ *after* the date of the first publication or posting of the notice . ~~[; and~~

~~(2) Before the date on which the sale is to occur.]~~

Sec. 30. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate ~~[at a private sale]~~ unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) Except for a sale of real property pursuant to NRS 159.123, the real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal ~~[and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.]~~ *upon a showing to and specific findings by the court on the record that:*

(a) An additional appraisal will unduly delay the sale; and

(b) The delay will impair the estate of the ward.

Sec. 31. NRS 159.146 is hereby amended to read as follows:

159.146 1. At the hearing to confirm the sale of real property, the court shall:

(a) Consider whether the sale is necessary or in the best interest of the estate of the ward; and

(b) Examine the return on the investment and the evidence submitted in relation to the sale.

2. The court shall confirm the sale and order conveyances to be executed if it appears to the court that:

(a) Good reason existed for the sale;

(b) The sale was conducted in a legal and fair manner;

(c) The amount of the offer ~~[or bid]~~ is not disproportionate to the value of the property; and

(d) It is unlikely that ~~[an offer or]~~ *a* bid would be made which exceeds the original offer *:* ~~[or bid:]~~

(1) By at least 5 percent if the offer ~~[or bid]~~ is less than $100,000; or

(2) By at least $5,000 if the offer ~~[or bid]~~ is $100,000 or more.

3. The court shall not confirm the sale if the conditions in this section are not satisfied.

4. If the court does not confirm the sale, the court:

(a) May order a new sale; *or*

(b) May conduct a public auction in open court . ~~[, or~~

~~(c) May accept a written offer or bid from a responsible person and confirm the sale to the person if the written offer complies with the laws of this state and exceeds the original bid:~~

~~(1) By at least 5 percent if the bid is less than $100,000; or~~

~~(2) By at least $5,000 if the bid is $100,000 or more.]~~

5. If the court ~~[does not confirm the sale and]~~ orders a new sale:

(a) Notice must be given in the manner set forth in NRS 159.1425; and

(b) The sale must be conducted in all other respects as though no previous sale has taken place.

6. If a higher offer ~~[or bid]~~ is received by the court during the hearing to confirm the sale, the court may continue the hearing ~~[rather than accept the offer or bid as set forth in paragraph (c) of subsection 4]~~ if the court

determines that the person who made the ~~[original]~~ offer ~~[or bid]~~ *being confirmed* was not notified of the hearing and ~~[that the person who made the original offer or bid]~~ may wish to increase *the price of* his or her ~~[bid.]~~ *offer.* This subsection does not grant a right to a person to have a continuance granted and may not be used as a ground to set aside an order confirming a sale.

7. Except as otherwise provided in this ~~[subsection, if a higher offer or bid is received by the court during the hearing to confirm the sale and the court does not accept that offer or bid, each successive bid must be for not less than:~~

~~(a) An additional $5,000, if the original offer is for $100,000 or more; or~~

~~(b) An additional $250 if the original offer is less than $100,000.~~

~~➥ Upon the request of the guardian during the hearing to confirm the sale, the court may set other incremental bid amounts.]~~ *section, only the name of the buyer and the price of the sale may be changed at a public auction in open court. An order confirming the sale is sufficient as an addendum to the original contract to allow escrow to close.*

8. The title company may be changed at a public auction in open court if the estate and the buyer have mutually agreed to the change in writing.

9. The date of the close of escrow must be at least 10 judicial days after the date that the notice of the entry of order confirming the sale is filed with the clerk of the court unless the contract specifies a later date. The parties to the sale may extend the date of the close of escrow by mutual agreement in writing.

10. If the estate owes more than the value of the property and the estate has made an agreement with all lienholders to accept the sale price and waive any deficiency between the sale price and the amount owed to all lienholders, the sale must be confirmed without the potential for bidding in court. All other portions of the confirmation of sale must be adhered to. The valuation by the bank shall be deemed to be sufficient to meet the appraisal requirement for the sale, and the date of the sale is the date on which the bank approves the sale.

Sec. 32. NRS 159.1515 is hereby amended to read as follows:

159.1515 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* guardian may sell ~~[perishable property and other]~~ *or dispose of* personal property of the ward ~~[without]~~ *that has a total value of less than $10,000 if:*

(a) A notice ~~[, and title to]~~ *of intent to sell or dispose of* the property ~~[passes without confirmation by the court if the property:~~

~~(a) Will depreciate in value if not disposed of promptly; or~~

~~(b) Will incur loss or expense by being kept.~~

~~2. The]~~ *is mailed by certified mail or delivered personally to the ward, his or her attorney and the persons specified in NRS 159.034; and*

(b) No objection to the sale or disposal is made within 15 days after such notice is received.

2. A guardian ~~[is responsible for the actual value]~~ *may authorize the immediate destruction* of the personal property ~~[unless the guardian obtains confirmation by the court of the sale.]~~ *of a ward without notice if:*

(a) The guardian determines that the property has been contaminated by vermin or biological or chemical agents;

(b) The expenses related to the decontamination of the property cause salvage to be impractical;

(c) The property constitutes an immediate threat to public health or safety;

(d) The handling, transfer or storage of the property might endanger public health or safety or exacerbate contamination; and

(e) The value of the property is less than $100 or, if the value of the property is $100 or more, a state or local health officer has endorsed the destruction of the property.

Sec. 33. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in *this section and* NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is ~~[published]~~ *:*

(a) Given to the:

(1) Ward if he or she is 14 years of age or older;

(2) Parent or legal guardian of the ward, if the ward is a minor who is less than 14 years of age; and

(3) Spouse of the ward and all other known relatives of the ward who are within the second degree of consanguinity; and

(b) Published in:

~~[(a)]~~ *(1)* A newspaper that is published in the county in which the property, or some portion of the property, is located; or

~~[(b)]~~ *(2)* If a newspaper is not published in ~~[that]~~ *the* county ~~[:]~~ *in which the property, or some portion of the property, is located:*

~~[(1)]~~ *(I)* In a newspaper of general circulation in the county; or

~~[(2)]~~ *(II)* In such other newspaper as the court orders.

2. Except as otherwise provided in this section ~~[:~~

~~(a) The notice of a public sale must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.~~

~~(b) The~~ *, the* notice of a ~~[private]~~ sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The notice must include, without limitation:

(a) ~~[For a public sale:~~

~~(1) A description of the personal property to be sold; and~~

~~(2) The date, time and location of the sale.~~

~~(b)]~~ For a ~~[private]~~ sale ~~[:]~~ *other than a sale described in paragraph (b):*

(1) A description of the personal property to be sold; and

(2) The date, time and location that offers will be ~~[accepted.~~ ~~(c)]~~ *received*.

(b) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

5. Notice of a sale is not required to be published pursuant to this section if the gross value of the estate of the ward is less than $10,000.

Sec. 34. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward ~~[by public sale]~~ at:

(a) The residence of the ward; or

(b) Any other location designated by the guardian.

2. The guardian may sell the personal property ~~[by public sale]~~ only if the property is made available for inspection at the time of the sale or photographs of the personal property are posted on an appropriate auction website on the Internet.

3. Personal property may be sold ~~[at a public or private sale]~~ for cash or upon credit.

4. Except as otherwise provided in NRS 159.1515, a sale or disposition of any personal property of the ward must not be commenced until 30 days after an inventory of the property is filed with the court and a copy thereof is sent by regular mail to the persons specified in NRS 159.034. An affidavit of mailing must be filed with the court.

5. The guardian is responsible for the actual value of the personal property unless the guardian makes a report to the court, not later than 90 days after the conclusion of the sale, showing that good cause existed for the sale and that the property was sold for a price that was not disproportionate to the value of the property.

6. The family members of the ward and any interested persons must be offered the first right of refusal to acquire the personal property of the ward at fair market value.

Sec. 35. NRS 159.173 is hereby amended to read as follows:

159.173 If a guardian of the estate sells or transfers any real or personal property that is specifically devised or bequeathed by the ward or which is held by the ward as a joint tenancy, designated as being held by the ward in trust for another person or held by the ward as a revocable trust and the ward ~~[was competent]~~ *had the capacity* to make a will or create the interest at the time the will or interest was created, but ~~[was not competent]~~ *did not have the capacity* to make a will or create the interest at the time of the sale or transfer and never executed a valid later will or changed the manner in which the ward held the interest, the devisee, beneficiary or legatee may elect to take the proceeds of the sale or other transfer of the interest, specific devise or bequest.

Sec. 35.5. NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection ~~[4,]~~ *5*, a guardian must be allowed:

(a) Reasonable compensation for the guardian's services;

(b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and

(c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

(a) The nature of the guardianship;

(b) The type, duration and complexity of the services required; and

(c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

(a) The nature, extent and liquidity of the ward's assets;

(b) The disposable net income of the ward;

(c) Any foreseeable expenses; and

(d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. *Any compensation or expenses, including, without limitation, attorney's fees, must not be paid from the estate of the ward unless and until the payment of such fees is approved by the court pursuant to this section or section 3 of this act, as applicable.*

5. A ~~[private professional]~~ guardian is not allowed compensation or expenses *, including, without limitation, attorney's fees,* for services incurred by the ~~[private professional]~~ guardian as a result of a petition to have him or her removed as guardian if the court removes the ~~[private professional]~~ guardian . ~~[pursuant to the provisions of paragraph (b), (d), (e), (f) or (h) of subsection 1 of NRS 159.185.]~~

Sec. 36. NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally ~~[incompetent,]~~ *incapacitated,* unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to NRS 159.0613 if the ward is an adult or NRS 159.061 if the ward is a minor;

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 37. NRS 159.1995 is hereby amended to read as follows:

159.1995 1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

(a) Hold an evidentiary hearing;

(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the ~~[incompetent;]~~ *person who is incapacitated;* and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 38. NRS 159.215 is hereby amended to read as follows:

159.215 1. A member of the Armed Forces of the United States, a reserve component thereof or the National Guard may, by written instrument and without the approval of a court, appoint any ~~[competent]~~ adult residing in this State *who is not incapacitated* as the guardian of the person of a minor child who is a dependent of that member. The instrument must be:

(a) Executed by both parents if living, not divorced and having legal custody of the child, otherwise by the parent having legal custody; and

(b) Acknowledged in the same manner as a deed.

➥ If both parents do not execute the instrument, the executing parent shall send by certified mail, return receipt requested, to the other parent at his or her last known address, a copy of the instrument and a notice of the provisions of subsection 3.

2. The instrument must contain a provision setting forth the:

(a) Branch of the Armed Forces;

(b) Unit of current assignment;

(c) Current rank or grade; and

(d) Social security number or service number,

➥ of the parent who is the member.

3. The appointment of a guardian pursuant to this section:

(a) May be terminated by a written instrument signed by either parent of the child if that parent has not been deprived of his or her parental rights to the child; and

(b) Is terminated by any order of a court.

Sec. 39. NRS 449.6922 is hereby amended to read as follows:

449.6922 ~~["Incompetent"]~~ *"Incapacitated"* has the meaning ascribed to it in NRS 159.019.

Sec. 40. NRS 449.6942 is hereby amended to read as follows:

449.6942 1. A physician shall take the actions described in subsection 2:

(a) If the physician diagnoses a patient with a terminal condition;

(b) If the physician determines, for any reason, that a patient has a life expectancy of less than 5 years; or

(c) At the request of a patient.

2. Upon the occurrence of any of the events specified in subsection 1, the physician shall explain to the patient:

(a) The existence and availability of the Physician Order for Life-Sustaining Treatment form;

(b) The features of and procedures offered by way of the POLST form; and

(c) The differences between a POLST form and the other types of advance directives.

3. Upon the request of the patient, the physician shall complete the POLST form based on the preferences and medical indications of the patient.

4. A POLST form is valid upon execution by a physician and:

(a) If the patient is 18 years of age or older and of sound mind, the patient;

(b) If the patient is 18 years of age or older and ~~[incompetent,]~~ *incapacitated,* the representative of the patient; or

(c) If the patient is less than 18 years of age, the patient and a parent or legal guardian of the patient.

5. As used in this section, "terminal condition" has the meaning ascribed to it in NRS 449.590.

Sec. 41. NRS 449.6944 is hereby amended to read as follows:

449.6944 1. A Physician Order for Life-Sustaining Treatment form may be revoked at any time and in any manner by:

(a) The patient who executed it, if ~~[competent,]~~ *not incapacitated*, without regard to his or her age or physical condition;

(b) If the patient is ~~[incompetent,]~~ *incapacitated*, the representative of the patient; or

(c) If the patient is less than 18 years of age, a parent or legal guardian of the patient.

2. The revocation of a POLST form is effective upon the communication to a provider of health care, by the patient or a witness to the revocation, of the desire to revoke the form. The provider of health care to whom the revocation is communicated shall:

(a) Make the revocation a part of the medical record of the patient; or

(b) Cause the revocation to be made a part of the medical record of the patient.

Sec. 42. NRS 449.695 is hereby amended to read as follows:

449.695 1. Except as otherwise provided in this section and NRS 449.6946, a provider of health care shall comply with a valid Physician Order for Life-Sustaining Treatment form, regardless of whether the provider of health care is employed by a health care facility or other entity affiliated with the physician who executed the POLST form.

2. A physician may medically evaluate the patient and, based upon the evaluation, may recommend new orders consistent with the most current information available about the patient's health status and goals of care. Before making a modification to a valid POLST form, the physician shall consult the patient or, if the patient is ~~[incompetent,]~~ *incapacitated*, shall make a reasonable attempt to consult the representative of the patient and the patient's attending physician.

3. Except as otherwise provided in subsection 4, a provider of health care who is unwilling or unable to comply with a valid POLST form shall take all reasonable measures to transfer the patient to a physician or health care facility so that the POLST form will be followed.

4. Life-sustaining treatment must not be withheld or withdrawn pursuant to a POLST form of a patient known to the attending physician to be pregnant, so long as it is probable that the fetus will develop to the point of live birth with the continued application of life-sustaining treatment.

5. Nothing in this section requires a provider of health care to comply with a valid POLST form if the provider of health care does not have actual knowledge of the existence of the form.

Sec. 43. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer,

within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed $10,000, plus the cost of transporting the remains of the deceased employee. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. Except as otherwise provided in subsection 3, to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until the death of the surviving spouse.

3. If there is a surviving spouse and any surviving children of the deceased employee who are not the children of the surviving spouse, the compensation otherwise payable pursuant to subsection 2 must be paid as follows until the entitlement of all children of the deceased employee to receive compensation pursuant to this subsection ceases:

(a) To the surviving spouse, 50 percent of the death benefit is payable until the death of the surviving spouse; and

(b) To each child of the deceased employee, regardless of whether the child is the child of the surviving spouse, the child's proportionate share of 50 percent of the death benefit and, except as otherwise provided in subsection 11, if the child has a guardian, the compensation the child is entitled to receive may be paid to the guardian.

4. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee, in addition to any amount the child may be entitled to pursuant to subsection 3, must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his or her proportionate share of 66 2/3 percent of the average monthly wage for the support of the child.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, 33 1/3 percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, 66 2/3 percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing the death of the deceased employee, his or her proportionate share of 66 2/3 percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed 66 2/3 percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon the earnings of the deceased employee for support at the time of the injury causing his or her death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his or her death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to the dependent, funeral expenses are payable in an amount not to exceed $10,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or ~~[incompetent,]~~ *incapacitated,* the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of $3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, ~~["incompetent"]~~ *"incapacitated"* has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his or her proportionate share of compensation pursuant to this section ceases when the child dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if the child is:

(a) Over 18 years of age and incapable of supporting himself or herself, until such time as the child becomes capable of supporting himself or herself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until the child reaches the age of 22 years.

13. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 43.3. Section 41 of Senate Bill No. 433 of this session is hereby amended to read as follows:

Sec. 41. 1. This section and sections 1 to ~~[36,]~~ 35, inclusive, 38, 39 and 40 of this act become effective on July 1, 2017.

2. Section 36 of this act becomes effective on October 1, 2017.

3. Section 37 of this act becomes effective on ~~[July]~~ October 1, 2017, if, and only if, Assembly Bill No. 319 of this session is enacted by the Legislature and becomes effective.

Sec. 43.5. 1. There is hereby appropriated from the State General Fund to the Nevada Supreme Court to pay the costs of the State Guardianship Compliance Office created by section 4 of this act:

For the Fiscal Year 2017-2018..... $295,732

For the Fiscal Year 2018-2019..... $659,019

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

Sec. 44. NRS 159.1435 is hereby repealed.

Sec. 45. 1. This section and section ~~[43.5]~~ 43.3 of this act become effective ~~[on July 1, 2017,]~~ upon passage and approval.

2. Section 43.5 of this act becomes effective on July 1, 2017.

3. Sections 1 to 43, inclusive, and 44 of this act become effective on January 1, 2018.

TEXT OF REPEALED SECTION

159.1435 Public auction for sale of real property: Where held; postponement.

1. Except for a sale pursuant to NRS 159.123 or 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Senator Segerblom moved the adoption of the amendment.

Remarks by Senator Segerblom.

Amendment No. 1111 to Assembly Bill No. 130 deletes the word "petition" from the bill in order to avoid the publication of certain information concerning guardianships and revises effective dates in the bill to comport with other guardianship bills that have been passed this Session.

Amendment adopted.

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

Assembly Bill No. 382.

Bill read second time and ordered to third reading.

Assembly Bill No. 388.

Bill read second time and ordered to third reading.

Assembly Bill No. 397.

Bill read second time and ordered to third reading.

Assembly Bill No. 414.

Bill read second time and ordered to third reading.

Assembly Bill No. 487.

Bill read second time and ordered to third reading.

Assembly Bill No. 489.

Bill read second time and ordered to third reading.

Assembly Bill No. 493.

Bill read second time and ordered to third reading.

Assembly Bill No. 497.

Bill read second time and ordered to third reading.

Assembly Bill No. 498.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1121.

SUMMARY—Makes an appropriation to the Division of Emergency Management of the Department of Public Safety for a joint field office to work with the Federal Emergency Management Agency on certain flood reimbursements. (BDR S-1172)

AN ACT making an appropriation to the Division of Emergency Management of the Department of Public Safety for a joint field office to work with the Federal Emergency Management Agency on certain flood reimbursements; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Division of Emergency Management of the Department of Public Safety the sum of $351,938 to set up a joint field office to work with the Federal Emergency Management Agency on flood reimbursements related to the 2017 floods.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2019, 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 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 3. This act becomes effective ~~[on July 1, 2017.]~~ upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1121 to Assembly Bill No. 498 changes the effective date from July 1, 2017, to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 500.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1122.

SUMMARY—Makes an appropriation to the Account for the Governor's Portrait for the preparation and framing of a portrait of Governor Brian Sandoval. (BDR S-1190)

AN ACT making an appropriation to the Account for the Governor's Portrait for the preparation and framing of a portrait of Governor Brian Sandoval; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Account for the Governor's Portrait created by NRS 223.121 the sum of $25,000 for the preparation and framing of a portrait of Governor Brian Sandoval.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2019, 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 20, 2019, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2019.

Sec. 3. This act becomes effective ~~[on July 1, 2017.]~~ upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1122 to Assembly Bill No. 500 changes the effective date from July 1, 2017, to effective upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 501.

Bill read second time and ordered to third reading.

Assembly Bill No. 502.

Bill read second time and ordered to third reading.

Assembly Bill No. 503.

Bill read second time and ordered to third reading.

Assembly Bill No. 504.

Bill read second time and ordered to third reading.

Assembly Bill No. 511.

Bill read second time and ordered to third reading.

Assembly Bill No. 512.

Bill read second time and ordered to third reading.

Assembly Bill No. 519.

Bill read second time and ordered to third reading.

Assembly Bill No. 520.
Bill read second time and ordered to third reading.

Assembly Bill No. 521.
Bill read second time and ordered to third reading.

Assembly Bill No. 522.
Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 14.
Resolution read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Spearman moved that Senate Joint Resolution No. 16 be taken from the Secretary's desk and placed at the bottom of the General File, last Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 167.
Bill read third time.
The following amendment was proposed by the Committee on Finance:
Amendment No. 1093.

SUMMARY—Makes an appropriation for the creation and maintenance of school gardens. (BDR S-834)

AN ACT making an appropriation for the creation and maintenance of school gardens for certain Title I schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 337 of the 77th Session of the Nevada Legislature was adopted in order to strongly encourage each school to establish and participate in programs, including a school garden program, in order to promote the consumption of fresh fruits and vegetables by children.

This bill appropriates money to provide for the creation and maintenance of programs that provide school gardens for Title I schools.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the State Department of Agriculture for the cost of creating and maintaining programs for school gardens that meet the requirements of subsection 2:

For the Fiscal Year 2017-2018 ..... $410,000
For the Fiscal Year 2018-2019 ..... $205,000

2. Subject to the limitations of subsection ~~[5,]~~ 6, the Department shall allocate the money appropriated by subsection 1 to schools which meet the requirements of subsection 3 to provide at the school a program for a school garden which meets the requirements set forth in subsection 4.

3. For a school to receive an allocation of money pursuant to subsection 2, the school must be a Title I school as defined in NRS 385A.040.

4. For a school to receive an allocation of money to provide a program for a school garden pursuant to subsection 2, the program must:

(a) Create and maintain a school garden at the school . ~~[;]~~

(b) Have a curriculum that:

(1) Is tailored to pupils of the appropriate grade levels at the school;

(2) Is written specifically for Nevada and the desert environment of Nevada;

(3) ~~[Includes projects that are related to courses of study in the subjects of]~~ Complies with the standards of content and performance for a course of study in science adopted by the State Board of Education pursuant to NRS 389.520;

(4) Uses experiential learning or project-based learning to teach science, technology, engineering, arts and mathematics;

~~[(4)]~~ (5) Is designed with the assistance of teachers and other educational personnel with experience at the appropriate grade levels at the school; and

~~[(5)]~~ (6) Involves ~~[classroom and tactile]~~ supervised learning experiences for the pupils at the school ~~[;]~~ in a classroom and an outdoor garden.

(c) Provide the school with assistance from members of the community, including, without limitation, trained educators, local farmers and local chefs . ~~[; and]~~

(d) Provide pupils with the:

(1) Ability to operate a farmer's market to sell the produce from the school garden; and

(2) Opportunity to have a local chef or employee of a school who works in food services demonstrate how to cook a meal using the produce grown from the school garden.

(e) Establish garden teams comprised of teachers and, if such persons are available, parents and members of the community. Each garden team shall meet at least once each month.

(f) Require any local nonprofit or community-based organization which will provide services to implement the program for a school garden to have at least 2 years of experience implementing such a program.

5. Money allocated pursuant to subsection 2 may be used by a school to:

(a) Provide professional development for teachers regarding the:

(1) Use of a school garden to teach pupils with disabilities;

(2) Development and implementation of science, technology, engineering, arts and mathematics curricula that incorporate the use of a school garden; and

(3) Development and implementation of a food safety plan designed to ensure that food grown in a school garden is properly handled and safe to sell and consume;

(b) Pay for any travel expenses associated with the attendance of a teacher at any training or conference relating to school gardens; and

(c) Pay for the costs of a conference regarding school gardens held in this State.

6. Pursuant to subsection 2, a school may receive an allocation of not more than $10,000 for the Fiscal Year 2017-2018 and not more than $5,000 for the Fiscal Year 2018-2019.

~~[6.]~~ 7. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

Sec. 2. This act becomes effective on July 1, 2017.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1093 to Senate Bill No. 167 clarifies a school that receives funding from the Department of Agriculture may use the funding to provide professional development for teachers related to plant science, agriculture, science, technology, engineering, arts, math and the use of school gardens to instruct students with disabilities; to develop a school-site food-safety plan; teacher training related travel related to school gardens, and fund school garden conferences in the State. It also requires school garden programs that receive funding to comply with the content and performance for a course of study in science adopted by the State Board of Education, utilize experiential learning or project-based learning and involve supervised learning in the classroom and an outdoor garden setting. The amendment also requires the establishment of garden teams that meet at least on a monthly basis and requires the school garden programs that work with local nonprofits to utilize nonprofits or community organizations that have at least two years' experience of successful school garden program implementation.

Amendment adopted.

Bill read third time.

Remarks by Senator Farley.

Senate Bill No. 167 requires school-garden programs that receive funding to comply with the content and performance for a course of study in science adopted by the State Board of Education, utilize experiential learning or project-based learning and involve supervised learning in the classroom and an outdoor garden setting. This is a public school program that is going right. It involves students, teachers, parents and the community working together. It is wonderful to see, particularly in our Title I schools. It is important to mention that here we are in the Mojave desert, and we are the State leading the Nation in school gardens. We recently held the largest student-run farmers' market in the Nation in downtown Las Vegas. This is a good program.

Roll call on Senate Bill No. 167:
YEAS—16.
NAYS—Gustavson, Hammond, Kieckhefer, Roberson, Settelmeyer—5.

Senate Bill No. 167 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 418.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1120.

SUMMARY—Revises provisions relating to air pollution. (BDR 40-970)

AN ACT relating to air pollution; declaring the priorities of the Legislature to expend the proceeds from certain consent decrees, orders and settlement agreements involving emissions from vehicles; requiring the Division of Environmental Protection of the State Department of Conservation and Natural Resources to allocate money deposited in the Account for the Management of Air Quality from such consent decrees, orders and settlement agreements to prevent, reduce or control air pollution, to replace or repower certain school buses in this State and to construct and install publicly available hydrogen-fueling stations and electric vehicle charging stations; requiring the Division to take certain actions required by certain consent decrees, orders and settlements entered into by this State relating to emissions from vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The United States District Court for the Northern District of California recently approved two partial consent decrees in litigation between the United States Department of Justice and the Volkswagen Corporation and its subsidiaries regarding the installation and use of emissions testing devices in many vehicles sold and operated in the United States. One provision of the partial consent decrees requires the Volkswagen Corporation to fund a Mitigation Trust Fund, the money from which will be disbursed to the states based on the number of affected vehicles which were registered in each state. The money must be used to fund projects intended to offset the excess emissions of nitrogen oxides caused by the vehicles. Another provision requires the Volkswagen Corporation to direct $2,000,000,000 of investments over a 10-year period to support the increased use of technology for zero emission vehicles. (Partial Consent Decree, *In re* Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016) and Second Partial Consent Decree, *In re* Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016))

Section 6 of this bill declares that the priority of the Legislature in expending any proceeds from this or similar litigation is to use a portion of the proceeds to: (1) prevent, reduce or control air pollution throughout the State; (2) assist schools and school districts to replace or repower eligible school buses to reduce emissions of nitrogen oxides and other hazardous air contaminants; and (3) construct publicly available electric vehicle charging stations and hydrogen-fueling stations. Section 7 of this bill requires the eligible proceeds from any consent decrees, orders or settlement agreements received by this State for the purposes of mitigating emissions from vehicles or supporting the increased use of zero emission vehicles be deposited in the Account for the Management of Air Quality in the State General Fund.

Section 8 of this bill requires the Division of Environmental Protection of the State Department of Conservation and Natural Resources to: (1) establish criteria for evaluating applications for projects that prevent, reduce or control air pollution throughout the State and criteria for prioritizing the allocation of money for such projects; and (2) develop policies and procedures whereby an entity in the State may apply for money in the Account for such projects . ~~[; and (3) request that the Department allocate all money available in the Account each year to applicants in order of priority.]~~ Additionally, section 8 of this bill requires the Division to: (1) establish a method for annually evaluating school bus fleets in this State and rank them based on certain criteria involving emissions; and (2) develop policies and procedures whereby the owners or operators of school buses in this State may apply for money from the Account to replace or repower those eligible school buses to reduce emissions . ~~[; and (3) request that the Department allocate all the money available in the Account each year to applicants in order of priority.]~~ Section 8 also requires the Division, in cooperation with the Department of Transportation and the Governor's Office of Energy, to ~~[: (1)]~~ determine and prioritize those areas of the State where construction and installation of publicly available hydrogen-fueling stations and electric vehicle charging stations would have the maximum impact on encouraging the use of zero emission vehicles . ~~[; and (2) request that the Department allocate all the money available in the Account each year for that purpose for the construction.]~~ Section 8 requires the Division to establish a program to ~~[provide financial incentives to promote investment in]~~ issue grants for the construction of publicly available hydrogen-fueling stations and electric vehicle charging stations. Section 8 further requires the Division to: (1) submit a report to the Interim Finance Committee every 6 months regarding deposits into and allocations from the Account of money received from any consent decrees, orders or settlement agreements by this State for the purposes of mitigating emissions from vehicles or supporting the increased use of zero emission vehicles; (2) submit a report to the Governor annually and each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Legislature setting forth the allocations of such money from the Account; and ~~[(2)]~~ (3) adopt regulations. Section 8 also

authorizes the Division to take any other actions that are necessary to carry out the duties imposed by section 8. Section 13 of this bill requires the Division to prepare and submit a Beneficiary Mitigation Plan, as required by the partial consent decrees from the Volkswagen litigation, which enacts the intent of the Legislature to use money from the Mitigation Trust Fund to assist schools and school districts to replace or repower eligible school buses to reduce emissions of nitrogen oxides and other hazardous air pollutants and to construct and install publicly available hydrogen-fueling stations and electric vehicle charging stations to support the increased use of zero emission vehicles. Section 13 further requires the Division, when providing input relevant to the Draft National ZEV Investment Plan required by the partial consent decrees, to advocate for and encourage inclusion in the National ZEV Investment Plan the construction in this State of hydrogen-fueling stations and electric vehicle charging stations. Sections 9-12 of this bill make conforming changes.

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

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 8, inclusive, of this act.

Sec. 1.5. *"Account for the Management of Air Quality" or "Account" means the Account for the Management of Air Quality created by NRS 445B.590.*

Sec. 2. *"Division" means the Division of Environmental Protection of the Department.*

Sec. 3. *"Publicly available electric vehicle charging station" means the equipment used to supply electric energy for the recharging of the batteries in vehicles which are partly or solely powered by electric motors that is open to the public.*

Sec. 4. *"Publicly available hydrogen-fueling station" means the equipment used to store and dispense hydrogen fuel according to industry codes and standards that is open to the public.*

Sec. 5. *"School bus" has the meaning ascribed to it in NRS 483.160.*

Sec. 6. *1. The Legislature hereby declares that its priorities in expending the proceeds to the State of Nevada from consent decrees, orders and settlement agreements which result in the State receiving money for the purposes of mitigating the emissions from any vehicles and supporting the increased use of zero emission vehicles are:*

(a) To prevent, reduce or control air pollution throughout the State;

(b) To assist schools and school districts to replace or repower school buses to reduce the emissions of nitrogen oxides and other hazardous air pollutants from the buses; and

(c) To construct publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations in this State.

2. To further these priorities, the Legislature hereby declares that it is in the best interest of the residents of the State of Nevada that:

(a) A portion of the money received by the State pursuant to any settlement agreement entered into by this State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles or supporting the increased use of zero emission vehicles be dedicated for use to prevent, reduce or control air pollution throughout the State.

(b) A portion of the money received by the State pursuant to any settlement agreement entered into by the State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles be dedicated toward the achievement of the goal of assisting every entity in this State which owns or operates a school bus to replace or repower the school bus in a way that:

(1) Reduces emissions of nitrogen oxides and other hazardous air pollutants from the school bus; and

(2) Mitigates the impacts of emissions of nitrogen oxides and other hazardous air pollutants on communities that have historically borne a disproportionate share of the adverse impact of those emissions.

(c) A portion of the money received by the State pursuant to any settlement agreement entered into by the State and a manufacturer of vehicles with diesel engines, a portion of the money recovered by the State pursuant to a consent decree or order in a civil action against a manufacturer of vehicles with diesel engines and a portion of the money received by the State from a consent decree, order or settlement agreement for the purposes of mitigating the emissions from any vehicles or supporting the increased use of zero emission vehicles be dedicated toward the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations in this State to promote and encourage the use of zero emission vehicles in a way that:

(1) Reduces emissions of nitrogen oxides and other hazardous air pollutants from the vehicles traveling on the highways of this State; and

(2) Supports the increased use of technology for zero emission vehicles.

Sec. 7. *1. The State Treasurer shall deposit in the Account:*

(a) The money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of vehicles equipped with diesel engines which by the terms of the settlement may be deposited into the Account;

(b) The money received by this State pursuant to any consent decree or order in a civil action against a manufacturer of vehicles equipped with

diesel engines which by the terms of the consent decree or order may be deposited into the Account;

(c) The money received by this State pursuant to any consent decree or order in a civil action or any settlement entered into by the State of Nevada and any entity for which money is to be received by this State for purposes that include the mitigation of emissions from any vehicles and for which the money received, by the terms of the consent decree, order or settlement, may be deposited into the Account;

(d) The money received by this State pursuant to any consent decree or order in a civil action or any settlement entered into by the State of Nevada and any entity for which money is to be received by this State for purposes that include supporting the increased use of zero emission vehicle technology, may be deposited into the Account; and

(e) Any gifts, grants, bequests or donations specifically designated for the Account by the donor.

2. All money that is deposited or paid into the Account pursuant to this section is hereby appropriated to be used for any purpose authorized by the Legislature or by the ~~[Department]~~ Division for expenditure or allocation in accordance with the provisions of section 8 of this act. Money expended from the Account pursuant to that section must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 8. *1. The Division shall:*

(a) Establish criteria for evaluating applications for projects that prevent, reduce or control air pollution throughout the State that include, without limitation, determining which projects are eligible for funding pursuant to the terms of any conditions restricting the allocation of any money in the Account.

(b) Develop policies and procedures for the solicitation of and applications by an entity in this State to obtain money from the Account for a project that seeks to prevent, reduce or control air pollution throughout the State.

(c) Establish criteria for prioritizing the allocation of money from the Account for applications received pursuant to paragraph (b) for projects to prevent, reduce or control air pollution throughout the State.

(d) ~~[Request from the Department an allocation of all money available in the Account each year pursuant to the determinations made in subsection 4 to applicants in the order of priority established pursuant to paragraph (c).~~

~~(e)]~~ Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.

2. The Division shall:

(a) Establish a method for annually evaluating the school bus fleets of schools and school districts in this State to rank those fleets based on which fleets:

(1) Emit the largest amount of nitrogen oxides or other hazardous air contaminants;

(2) Are used primarily in communities that have historically borne a disproportionate share of the adverse impact of those air contaminants; and

(3) Contain the highest percentage of buses that are eligible to be replaced or repowered pursuant to the terms of any conditions restricting the allocation of any money in the Account.

(b) Develop policies and procedures for the solicitation of and applications by any entity in this State which owns or operates a school bus to obtain money from the Account for the purpose of replacing or repowering a school bus to reduce the emission of nitrogen oxides or other hazardous air pollutants.

(c) Establish criteria for prioritizing the allocation of money from the Account, including, without limitation, the rankings established pursuant to paragraph (a).

(d) ~~*[Request from the Department an allocation of all money available for that purpose in the Account each year pursuant to the determinations made in subsection 4 to applicants in the order of priority determined pursuant to paragraph (c).*~~

~~*— (e)]*~~ *Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.*

3. The Division, in cooperation with the Department of Transportation and the Governor's Office of Energy, shall:

(a) Determine those areas of this State where the construction and installation of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations would have the maximum impact on promoting, supporting and encouraging the use of zero emission vehicles.

(b) Establish criteria for prioritizing the allocation of money from the Account for the construction and installation of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations, including, without limitation, those areas of the State determined pursuant to paragraph (a).

(c) ~~*[Request from the Department an allocation of all money available for that purpose in the Account each year pursuant to the determinations made in subsection 4 to the Department of Transportation for the construction and installation, in accordance with the provisions of chapter 333 of NRS, of publicly available hydrogen fueling stations and publicly available electric vehicle charging stations in the order of priority determined pursuant to paragraph (b).*~~

~~*— (d)]*~~ *Meet all applicable requirements for receiving or expending money pursuant to any consent decree, order or settlement of a type set forth in paragraph (a), (b), (c) or (d) of subsection 1 of section 7 of this act.*

4. Except as otherwise provided in subsection 5, the Division shall:

(a) Prioritize the disbursement of money ~~[from]~~ in the Account that was deposited pursuant to section 7 of this act for the purposes of subsections 1, 2 and 3 based on, without limitation, any uses of the money which are in the best interests of the State; and

(b) Ensure that all allocations from the money in the Account that was deposited pursuant to section 7 of this act are for projects or purposes that meet the criteria established by the Division in subsections 1, 2 and 3.

5. The Division shall establish ~~[by regulation]~~ a program to ~~[provide financial incentives, including, without limitation,]~~ issue grants ~~[and loans, to promote investment in]~~ for the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations. The Department shall, to the extent money that was deposited pursuant to section 7 of this act is available ~~[from]~~ in the Account for that purpose, provide from that money an amount ~~[of money]~~ not to exceed $2,000,000 ~~[from the Account]~~ for use by the Division for the program.

6. The Division shall submit ~~[annually a]~~ :

(a) A report to the Interim Finance Committee biannually of all deposits into and allocations from the Account pursuant to this section and section 7 of this act during the reporting period; and

(b) An annual report of all applications and allocations made pursuant to this section to the Governor and, on or before February 1 of each odd-numbered year, submit each annual report for the immediately preceding 2 years to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. The Division:

(a) Shall adopt any regulations; and

(b) May take any other actions,

that are necessary to carry out its duties pursuant to this section.

Sec. 9. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, *and sections 1.5 to 5, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 445B.460 is hereby amended to read as follows:

445B.460 1. If, in the judgment of the Director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* or any rule, regulation, order or operating permit issued pursuant to NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* the Director may request that the Attorney General apply to the district court for an order enjoining the act or practice, or for an order directing compliance with any provision of NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* or any rule, regulation, order or operating permit issued

pursuant to NRS 445B.100 to 445B.640, inclusive ~~.~~ , *and sections 1.5 to 8, inclusive, of this act.*

2. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in or is about to engage in such an act or practice, the control officer may request that the district attorney of the county in which the act or practice is being engaged in or is about to be engaged in apply to the district court for such an order.

3. Upon a showing by the Director or the control officer that a person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order may be granted by the court.

Sec. 11. NRS 445B.470 is hereby amended to read as follows:

445B.470 1. A person shall not knowingly:

(a) Violate any applicable provision, the terms or conditions of any permit or any provision for the filing of information;

(b) Fail to pay any fee;

(c) Falsify any material statement, representation or certification in any notice or report; or

(d) Render inaccurate any monitoring device or method,

➥ required pursuant to the provisions of NRS 445B.100 to 445B.450, inclusive, *and sections 1.5 to 8, inclusive, of this act,* or 445B.470 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* or any regulation adopted pursuant to those provisions.

2. Any person who violates any provision of subsection 1 shall be punished by a fine of not more than $10,000 for each day of the violation.

3. The burden of proof and degree of knowledge required to establish a violation of subsection 1 are the same as those required by 42 U.S.C. § 7413(c), as that section existed on October 1, 1993.

4. If, in the judgment of the Director of the Department or the Director's designee, any person is engaged in any act or practice which constitutes a criminal offense pursuant to NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* the Director of the Department or the designee may request that the Attorney General or the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

5. If, in the judgment of the control officer of a local air pollution control board, any person is engaged in such an act or practice, the control officer may request that the district attorney of the county in which the criminal offense is alleged to have occurred institute by indictment or information a criminal prosecution of the person.

Sec. 12. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 and 704.7318:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall

establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 700,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act* and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 700,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, *and sections 1.5 to 8, inclusive, of this act* and 445B.500 to 445B.640, inclusive, *and sections 1.5 to 8, inclusive, of this act,* or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of $17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive ~~[.]~~ *, and sections 1.5 to 8, inclusive, of this act.* The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred and must be accounted for

separately in the fund. A school district may spend the money received pursuant to this section only in accordance with an annual spending plan that is approved by the local air pollution control board and shall submit an annual report to that board detailing the expenditures of the school district under the plan. A local air pollution control board shall approve an annual spending plan if the proposed expenditures set forth in the plan are reasonable and limited to:

(a) Programs of education on topics relating to air quality; and

(b) Projects to improve air quality, including, without limitation, the purchase and installation of equipment to retrofit school buses of the school district to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced by the use of traditional fuels such as gasoline and diesel fuel,

➥ which are consistent with the state implementation plan adopted by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. As used in this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 13. 1. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, in its role as lead agency on behalf of this State designated as required in section 4.2.1 of Appendix D to the Partial Consent Decree, shall, upon a determination of Beneficiary status pursuant to section 4.0 of Appendix D to the Partial Consent Decree, prepare and submit a Beneficiary Mitigation Plan as required by section 4.1 of Appendix D to the Partial Consent Decree which includes, without limitation, those provisions of sections 1.5 to 8, inclusive, of this act which enact the intent of the Legislature pursuant to section 6 of this act, and to the extent that such provisions are permissible under the requirements of the Partial Consent Decree and the Second Partial Consent Decree.

2. The Division of Environmental Protection of the State Department of Conservation and Natural Resources, when providing input relevant to the

development of a Draft National ZEV Investment Plan pursuant to section 2.4 of Appendix C to the Partial Consent Decree, shall advocate for and encourage inclusion in the National ZEV Investment Plan the construction of publicly available hydrogen-fueling stations and publicly available electric vehicle charging stations which enact the intent of the Legislature pursuant to section 6 of this act, to the extent that such construction is permissible under the requirements of the Partial Consent Decree and the Second Partial Consent Decree.

3. As used in this section:

(a) "Beneficiary" has the meaning ascribed to it in section 1.1 of Appendix D to the Partial Consent Decree.

(b) "Beneficiary Mitigation Plan" means the submittal required of a Beneficiary pursuant to section 4.1 of Appendix D to the Partial Consent Decree.

(c) "Draft National ZEV Investment Plan" means a draft of the National ZEV Investment Plan, which is required to be submitted to the Environmental Protection Agency pursuant to section 2.4 of Appendix C to the Partial Consent Decree.

(d) "National ZEV Investment Plan" has the meaning ascribed to it in section 1.6 of Appendix C to the Partial Consent Decree.

(e) "Partial Consent Decree" means Partial Consent Decree, *In re* Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Sept. 30, 2016).

(f) "Second Partial Consent Decree" means Second Partial Consent Decree, *In re* Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation, No. MDL No. 2672 CRB, (N.D. Cal. Dec. 20, 2016).

Sec. 14. 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. 15. This act becomes effective upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1120 to Senate Bill No. 418 removes language that conflicts with the mitigation trust agreement for the Volkswagen Settlements and how the settlement funds can be used, which subsequently removes the fiscal note for the Division of Environmental Protection. Specifically, the amendment requires the Division to establish a program to issue grants for the construction of hydrogen-fueling stations and electric-vehicle charging stations without requiring regulations for the program to provide financial incentives, including loans to promote investments for the construction of hydrogen-fueling stations and electric-vehicle charging stations.

In addition, Amendment No. 1120 to Senate Bill No. 418 clarifies settlement funds applicable to the new sections added to chapter 445B of NRS are in addition to existing funding sources deposited into the Account for the Management of Air Quality to support the Air Quality Program managed by the Division. Also, the amendment removes the requirement that the Division must request from the Department of Conservation and Natural Resources an allocation of all money available in the Account, which is not required, as the Division manages the Account.

Finally, the amendment requires the Division of Environmental Protection to submit a report to the Interim Finance Committee at six-month intervals of all deposits into and disbursements from the Account pursuant to section 8 of Senate Bill No. 418.

Amendment adopted.

Bill read third time.

Remarks by Senators Woodhouse and Settelmeyer.

SENATOR WOODHOUSE:

Section 6 of Senate Bill No. 418 declares the priority of the Legislature in expending the proceeds to the State of Nevada from consent decrees, orders and settlement agreements, which results in the State receiving money for the purposes of mitigating the emissions from any vehicles and supporting the increased use of zero-emissions vehicles. The priorities as outlined in the bill are to prevent, reduce or control air pollution through the State; assist schools and school districts to replace or repower school buses to reduce nitrogen oxide emissions and other hazardous air pollutants; and construct publically available electric-charging and hydrogen-fueling stations.

Section 8 of Senate Bill No. 418 requires the Division of Environmental Protection to establish criteria for evaluating applications for projects that prevent, reduce or control air pollution; develop policy and procedures for the solicitation of applications by an entity; establish criteria for prioritizing the allocation of money, and report to the Interim Finance Committee at six-month intervals regarding settlement deposits and disbursements.

SENATOR SETTELMEYER:

I agree with some of the goals in the bill such as reducing air pollution; however, it appears the bill is specifically being funded by the VW case and that we are interfering with a Consent Decree. Therefore, I cannot support this bill.

Roll call on Senate Bill No. 418:

YEAS—12.

NAYS—Gansert, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Roberson, Settelmeyer—9.

Senate Bill No. 418 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 122.

Bill read third time.

Remarks by Senator Cannizzaro.

Assembly Bill No. 122 removes provisions that prohibit the State Board of Examiners from awarding compensation to certain victims of crime who do not meet certain citizenship or residency requirements.

Roll call on Assembly Bill No. 122:

YEAS—21.

NAYS—None.

Assembly Bill No. 122 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 1124.

SUMMARY—Revises provisions relating to educational personnel. (BDR 34-1144)

AN ACT relating to education; prohibiting certain persons from assisting certain employees, contractors or agents who work at a public school to obtain new employment; prohibiting a local educational agency or public school from entering into certain agreements; requiring an applicant for employment who may have direct contact with pupils to provide certain information and written authorizations; requiring the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils , governing body of a private school and certain independent contractors to take certain action regarding persons who may have direct contact with children; requiring certain employers to provide certain information regarding an applicant for employment who may have direct contact with children; providing that an employer who fails to provide certain information regarding an applicant for employment who may have direct contact with children is subject to certain disciplinary action; providing that a teacher or administrator may be subject to disciplinary action for certain violations; authorizing the Superintendent of Public Instruction to deny an application for a license if a report on the criminal history of the applicant indicates that an applicant has been arrested for or charged with a sexual offense involving a minor or pupil; requiring the Superintendent to provide certain notice when an application for a license is denied; requiring the Department of Education to maintain a list of the names of persons whose application for a license has been denied for certain purposes; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6, 7 and 22 of this bill incorporate in state law certain provisions of federal law designed to prevent persons who have engaged in sexual misconduct with a minor from obtaining new employment.

Section 8 of this bill requires an applicant for employment with a school district, charter school, university school for profoundly gifted pupils and certain independent contractors who may have direct contact with pupils to provide to the prospective employer: (1) information relating to his or her employment history; and (2) written authorization for a current or previous employer to release information relating to his or her employment. Section 8 also provides that any action brought by such an applicant for employment based upon information obtained about the applicant to determine his or her fitness for employment must be brought in a court in this State and governed by the laws of this State. Finally, section 8 provides that an applicant for employment who knowingly provides false information or willfully fails to disclose information is subject to discipline and is guilty of a misdemeanor. Section 25 of this bill places the same requirements and penalties on an applicant for employment with a private school.

Section 9 of this bill requires the governing body of a public school, including the board of trustees of a school district, governing body of a charter school and governing body of a university school for profoundly gifted pupils, or an independent contractor who receives the information described in section 8 to: (1) verify the information received; (2) ensure that the applicant has a license authorizing him or her to teach or perform other educational functions if a license is required; and (3) verify that the Department of Education has not received notice that the applicant is a defendant in a criminal case. Section 26 of this bill similarly requires the governing body of a private school that receives the information described in section 25 to verify the information received.

~~[Section]~~ Sections 10 and 27 of this bill ~~[requires]~~ require the governing body of a public school , ~~[and]~~ an independent contractor and the governing body of a private school, respectively, to take certain action to obtain additional information if a current or previous employer of an applicant indicates that the applicant is or was the subject of an investigation concerning an alleged sexual offense.

Sections 9 , ~~[and]~~ 10 , 26 and 27 of this bill also provide that any employer or former employer who is contacted by the governing body of a public school , ~~[or]~~ an independent contractor or the governing body of a private school, respectively, and asked to provide information, but willfully fails to disclose information is subject to discipline, including a civil penalty. Sections 9 , ~~[and]~~ 10 , 26 and 27 further provide that, in addition to being subject to discipline, including a civil penalty, a private school that willfully fails to disclose any such information is subject to discipline, which may include being placed on a corrective action plan. Sections 9 , ~~[and]~~ 10 , 26 and 27 provide immunity from liability for providing the information and makes the information privileged.

~~[Section]~~ Sections 11 and 28 of this bill ~~[authorizes]~~ authorize the governing body of a public school , ~~[and]~~ an independent contractor and the governing body of a private school, respectively to: (1) consider the information received pursuant to sections 8-10 and 25-27 when making an employment decision; and (2) report the information received to certain entities. ~~[Section]~~ Sections 11 and 28 of this bill also ~~[provides]~~ provide that the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils , ~~[or]~~ independent contractor ~~[:]~~ or governing body of a private school: (1) shall not be held liable for any damages resulting from failure of an entity not subject to the jurisdiction of this State to respond to certain requests for information or any inaccuracy or omission in the information submitted; and (2) is immune from civil or criminal liability for considering the information received pursuant to sections 8-10 or 25-27, as applicable, when making employment decisions.

Section 12 of this bill requires an independent contractor who employs a person who may have direct contact with pupils to maintain a record for each

such employee and, upon request, provide this record to the governing body of the public school at which an employee has been assigned to perform work. Section 12 also: (1) requires an independent contractor to provide certain information to the governing body of a public school before assigning an employee to perform work at a location; and (2) prohibits an independent contractor from assigning an employee to perform work at a school if the governing body of the school objects to the assignment.

Section 13 and 29 of this bill ~~[authorizes]~~ authorize the governing body of a public school and the governing body of a private school, respectively, to allow provisional employment of a person pending review of the information received pursuant to sections 8-10 or 25-27, as applicable, in certain circumstances.

Section 14 of this bill provides that nothing in sections 2-17 of this bill shall be construed to: (1) prevent a prospective employer from conducting further investigations of a prospective employee; (2) prohibit a person from disclosing more information than is required by this bill; or (3) relieve a person of a duty to report prescribed by state or federal law. Section 30 of this bill similarly provides that nothing in sections 22-32 of this bill shall be construed to: (1) prevent a private school from conducting further investigations of a prospective employee; (2) prohibit a person from disclosing more information than is required by this bill; or (3) relieve a person of a duty to report prescribed by state or federal law.

~~[Section]~~ Sections 15 ~~[prohibits]~~ and 31 of this bill prohibit the governing body of a public school , ~~[or]~~ an independent contractor or the governing body of a private school, respectively, from entering into any agreement that: (1) has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee; (2) affects the ability of the governing body or independent contractor to report suspected abuse or sexual misconduct; or (3) requires the governing body or independent contractor to expunge certain information from any documents maintained by the governing body or independent contractor. ~~[Section]~~ Sections 15 and 31 also ~~[requires]~~ require an employer to maintain certain documents if the agreement requires the removal of the document from an employee's personnel file.

Sections 16 and 21 provide that any information collected from an applicant for employment or an employer pursuant to sections 8-10 is confidential and is not a public book or record.

~~[Section]~~ Sections 17 and 32 of this bill provide provides that any person who willfully violates any provision of sections 2-17 or 22-32, respectively, is subject to a civil penalty, which must be recovered in a civil action. Section 17 also prohibits the governing body of a public school from contracting with an independent contractor who has been found to have willfully violated the provisions of sections 2-17. Section 19 provides that a teacher or administrator may be subject to disciplinary action for willfully violating the provisions of sections 2-17.

Existing law requires the Superintendent of Public Instruction to grant all licenses for teachers and other educational personnel. (NRS 391.033) Section 18 of this bill authorizes the Superintendent to deny an application for a license if a report on the criminal history of the applicant from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History indicates that an applicant has been arrested for or charged with a sexual offense involving a minor or pupil. Section 18 requires the Superintendent or his or her designee to provide written notice of his or her intent to deny the application for a license and authorizes an applicant to whom such notice has been provided to request a hearing within 15 days after receipt of such notice. Section 18: (1) requires such a hearing to be conducted in accordance with regulations adopted by the State Board; and (2) authorizes the Superintendent to deny a license if no request for a hearing is filed within the prescribed period of time.

Section 18 also requires the Superintendent to provide notice to a school district or charter school that employs an applicant whenever an application for a license is denied. Finally, section 18 requires the Department of Education to: (1) maintain a list of the names of persons whose application for a license is denied due to conviction of a sexual offense involving a minor; and (2) provide such a list to certain persons upon request.

Existing law requires each private school desiring to operate in this State to apply to the Superintendent of Public Instruction to obtain a license to operate a private school. (NRS 394.451) Section 33 of this bill requires such an application to be accompanied by documentation of the actions the applicant has taken to comply with the requirements prescribed in sections 25, 26 and 27. Section 33 requires the State Board to deny a license to operate a private school or fail to renew such a license for an applicant who does not provide such documentation.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(30)(A).*

Sec. 4. *"Sexual misconduct" means any act, including, without limitation, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child, regardless of the age of the child, that is designed to establish a romantic or sexual relationship with the child.*

Sec. 5. *"Sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 6. *1. Except as otherwise provided in subsection 2, the Department, a local educational agency or an employee, contractor or agent thereof who works at a public school shall not assist an employee, contractor or agent who works at a school to obtain new employment, apart from the routine transmission of administrative and personnel files, if the person or entity has actual or constructive knowledge that such an employee, contractor or agent has engaged in sexual misconduct regarding a minor or pupil.*

2. The provisions of subsection 1 do not apply if:

(a) The information giving rise to actual or constructive knowledge has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct and any other authorities required by federal, state or local law, including, without limitation, Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 et seq., and any regulations adopted pursuant thereto, and the matter has been officially closed, or the District Attorney or law enforcement agency with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish that the employee, contractor or agent engaged in sexual misconduct regarding a minor or pupil;

(b) The employee, contractor or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

(c) The case or investigation remains open and there have been no charges filed against, or indictment of, the employee, contractor or agent within 4 years after the date on which the information was reported to a law enforcement agency.

3. The State Board may adopt regulations to enforce the provisions of this section.

Sec. 7. *A local educational agency or a public school shall not enter into any agreement with a person convicted of a sexual offense involving a minor to keep the conviction or the circumstances surrounding the offense confidential.*

Sec. 8. *1. In addition to fulfilling the requirements for employment prescribed by NRS 388A.323, 388A.515, 388C.200, 391.104 or 391.281, as applicable, or fulfilling the requirements for the issuance of a license prescribed by NRS 391.033, any applicant for employment with a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, as a condition to employment, submit to the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment, on a form prescribed by the Department:*

(a) The name, address and telephone number for the applicant's current employer, any former employer of the applicant that was a school or school

district and any other former employer with whom the applicant was employed in a position that involved direct contact with children;

(b) Any other contact information for an employer or former employer described in paragraph (a) prescribed by the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils with which the applicant seeks to obtain employment;

(c) Written authorization for an employer or former employer described in paragraph (a) to release the information prescribed in section 9 of this act; and

(d) A written statement indicating whether the applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency. The applicant is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer or agency determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. Any action brought by an applicant for employment described in subsection 1 against a board of trustees, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils, or an employee thereof, which is based upon information obtained by the board of trustees or the governing body with which the applicant seeks employment to determine the fitness of the applicant for employment, including, without limitation, an action for defamation, must be brought in a court in the State of Nevada and governed by the laws of this State. The provisions of this subsection shall not be deemed to waive any immunity from liability to which the board of trustees or governing body, as applicable, or employee thereof, is entitled.

3. An applicant for employment with an independent contractor of a school district, charter school or university school for profoundly gifted pupils who may have direct contact with pupils must, before having direct

contact with pupils, submit to the independent contractor on a form prescribed by the Department:

(a) The information described in paragraphs (a), (c) and (d) of subsection 1; and

(b) Any other contact information for the employers and former employers described in paragraph (a) of subsection 1 requested by the independent contractor with which the applicant seeks to obtain employment.

4. Any applicant for employment described in subsection 1 or 3 who knowingly provides false information or willfully fails to disclose any information required by this section:

(a) Is subject to discipline, including, without limitation, suspension or revocation of the person's license pursuant to NRS 391.330 or 391.750, termination of employment or a civil penalty pursuant to section 17 of this act; and

(b) Is guilty of a misdemeanor.

Sec. 9. *1. Upon receipt of the information required by section 8 of this act, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor shall:*

(a) Contact each employer and former employer described in paragraph (a) of subsection 1 of section 8 of this act and request that the employer provide:

(1) The dates of employment of the applicant; and

(2) On a form prescribed by the Department, a written statement indicating whether the applicant has:

(I) Except as otherwise provided in this sub-subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by the employer. An employer or former employer is not required to provide the information described in this sub-subparagraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(II) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(III) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(b) Ensure that the applicant 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 applying for

employment, if a license is required, and that the applicant is otherwise eligible for employment.

(c) Verify that the Department has not received notice, including, without limitation, notice provided pursuant to NRS 391.055, that the applicant is a defendant in a criminal case.

2. An employer or former employer contacted by a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor pursuant to paragraph (a) of subsection 1:

(a) Shall provide the information requested not later than 20 days after the date on which the board of trustees, governing body or independent contractor contacts the employer or former employer.

(b) Is immune from civil and criminal liability for any act relating to the provision of such information, unless the employer or former employer knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

3. Except as otherwise prohibited by federal or state law, an employer or former employer willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 10. *1. If a statement provided pursuant to paragraph (d) of subsection 1 of section 8 of this act or subparagraph (2) of paragraph (a) of subsection 2 of section 9 of this act indicates that the applicant meets any of the criteria prescribed in that paragraph or subparagraph, as applicable, the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor who receives the statement shall request the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed the employee or asked the employee to resign from employment to provide additional information concerning the matter and all records related to the matter, including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.*

2. An employer contacted by the board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor pursuant to subsection 1:

(a) Except as otherwise provided in this subsection, shall provide the information requested not later than 60 days after the date on which the

board of trustees, governing body or independent contractor contacts the employer.

(b) Is not required to disclose any information or records held by the school police of the school district, if the school district has school police officers.

(c) Is immune from civil and criminal liability to the same extent provided in paragraph (b) of subsection 2 of section 9 of this act.

3. Except as otherwise prohibited by federal or state law, an employer who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 17 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 11. *The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor:*

1. May consider the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person.

2. May report the information submitted pursuant to sections 8, 9 and 10 of this act to the Department or a licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency.

3. Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for information pursuant to section 9 or 10 of this act or any inaccuracy or omission in the information submitted to the school district, charter school, university school for profoundly gifted pupils or independent contractor pursuant to section 9 or 10 of this act.

4. Is immune from civil or criminal liability for considering the information submitted pursuant to sections 8, 9 and 10 of this act when deciding whether to employ an applicant or continue to employ a person.

Sec. 12. *1. An independent contractor of a school district, charter school or university school for profoundly gifted pupils who employs a person who may have direct contact with pupils shall:*

(a) Maintain a record for each such employee that includes, without limitation, the information submitted pursuant to subsection 2 of section 8 of this act and the information submitted pursuant to subsection 2 of section 9 of this act; and

(b) Upon request, provide the record maintained pursuant to paragraph (a) to the board of trustees of the school district, governing body of the charter school or governing body of the university school for

profoundly gifted pupils, as applicable, for the school at which an employee has been assigned to perform work.

2. Before assigning an employee to perform work at a location where the employee may have direct contact with pupils, an independent contractor shall inform the board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, with which the employee will be assigned to perform work of any instance known in which the employee:

(a) Except as otherwise provided in this paragraph, has been the subject of an investigation concerning an alleged sexual offense conducted by an employer. A person is not required to provide the information described in this paragraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(b) Has ever been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(c) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

3. An independent contractor may not assign an employee to perform work at a public school, charter school or university school for profoundly gifted pupils if the board of trustees of the school district in which the school is located, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, objects to such an assignment upon receiving the notification required by subsection 2.

Sec. 13. *The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to sections 8, 9 and 10 of this act if the board of trustees or the governing body determines the applicant is otherwise qualified and:*

1. The applicant provided the statement described in paragraph (d) of subsection 1 of section 8 of this act.

2. The board of trustees of the school district, governing body of the charter school or governing body of the university school for profoundly gifted pupils, as applicable, has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment.

3. The applicant swears or affirms that he or she is not disqualified from employment.

4. The applicant is directly supervised by a permanent employee in any duties that involve direct contact with pupils. The supervision must be such that the applicant is in the immediate location of the permanent employee and is readily available during such times as supervision is required.

Sec. 14. *Nothing in sections 2 to 17, inclusive, of this act shall be construed to:*

1. Prevent a board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or independent contractor from:

(a) Conducting further investigations of a prospective employee; or

(b) Requiring an applicant to submit additional information or authorizations beyond what is required by sections 8, 9 and 10 of this act.

2. Prohibit a person or governmental entity from disclosing more information than is required by sections 8, 9 and 10 of this act.

3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any other provision of state or federal law.

Sec. 15. *1. The board of trustees of a school district, governing body of a charter school, governing body of a university school for profoundly gifted pupils or the independent contractor of a school district, charter school or university school for profoundly gifted pupils shall not enter into an agreement that:*

(a) Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.

(b) Affects the ability of the school district, charter school, university school for profoundly gifted pupils or independent contractor to report suspected abuse or sexual misconduct to the appropriate authorities.

(c) Requires the school district, charter school, university school for profoundly gifted pupils or independent contractor to expunge information about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the school district, charter school, university school for profoundly gifted pupils or independent contractor unless, after investigating the alleged violation, the school district, charter school, university school for profoundly gifted pupils or independent contractor determines that the allegations were false, unfounded, unsubstantiated or inconclusive.

2. If an agreement requires the removal of a document from the personnel file of an employee, the employer must maintain the document with the agreement.

3. Any provisions in an agreement that violate the provisions of this section are void.

Sec. 16. *Any information collected pursuant to section 8, 9 or 10 of this act is confidential and is not a public book or record within the meaning of NRS 239.010.*

Sec. 17. *1. Any person who willfully violates any provision of sections 2 to 17, inclusive, of this act is subject to a civil penalty of not more than $10,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs. If a civil penalty is imposed against an independent contractor for willfully violating any provision of sections 2 to 17, inclusive, of this act, the Attorney General shall, within 30 days after the imposition of the civil penalty, notify the Department of the name of the independent contractor.*

2. The Department shall maintain a list of any independent contractors who have been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act and make the list available, upon request, to the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils.

3. The board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils shall not contract with an independent contractor who has been found to have willfully violated the provisions of sections 2 to 17, inclusive, of this act.

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 7 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]~~ *Except as otherwise provided in subsection 6, 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

(c) For initial licensure, the applicant submits the statement required pursuant to NRS 391.034.

6. The Superintendent may deny an application for a license pursuant to this section if a report on the criminal history of the applicant from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History indicates that the applicant has been arrested for or charged with a sexual offense involving a minor or pupil, including, without limitation, any attempt, solicitation or conspiracy to commit such an offense.

7. The Superintendent or his or her designee may deny the application for a license after providing written notice of his or her intent to deny the application to the applicant and providing an opportunity for the applicant to have a hearing.

8. To request a hearing pursuant to subsection 7, an applicant must submit a written request to the Superintendent within 15 days after receipt of the notice by the applicant. Such a hearing must be conducted in accordance with regulations adopted by the State Board. If no request for a hearing is filed within that time, the Superintendent may deny the license.

9. If the Superintendent denies an application for a license pursuant to this section, the Superintendent must, within 15 days after the date on which the application is denied, provide notice of the denial to the school district or charter school that employs the applicant if the applicant is employed by a school district or charter school. Such a notice must not state the reasons for denial.

10. The Department shall:

(a) Maintain a list of the names of persons whose applications for a license are denied due to conviction of a sexual offense involving a minor;

(b) Update the list maintained pursuant to paragraph (a) monthly; and

(c) Provide this list to the board of trustees of a school district or the governing body of a charter school upon request.

11. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 19. NRS 391.750 is hereby amended to read as follows:

391.750 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

(b) Immorality;

(c) Unprofessional conduct;

(d) Insubordination;

(e) Neglect of duty;

(f) Physical or mental incapacity;

(g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;

(h) Conviction of a felony or of a crime involving moral turpitude;

(i) Inadequate performance;

(j) Evident unfitness for service;

(k) Failure to comply with such reasonable requirements as a board may prescribe;

(l) Failure to show normal improvement and evidence of professional training and growth;

(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;

(n) Any cause which constitutes grounds for the revocation of a teacher's license;

(o) Willful neglect or failure to observe and carry out the requirements of this title;

(p) Dishonesty;

(q) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 390.270 or 390.275;

(r) An intentional violation of NRS 388.497 or 388.499;

(s) Knowingly and willfully failing to comply with the provisions of NRS 388.1351;

(t) *Knowingly and willfully violating any provision of sections 2 to 17, inclusive, of this act;*

(u) Gross misconduct; or

~~[(u)]~~ *(v)* An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. If a teacher or administrator is found, through an investigation of a testing irregularity, to have willfully breached the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 390.105 or 390.600 or the college and career readiness assessment administered pursuant to NRS 390.610, the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils, as applicable, shall:

(a) Suspend, dismiss or fail to reemploy the teacher; or

(b) Demote, suspend, dismiss or fail to reemploy the administrator.

3. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

4. As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

Sec. 20. NRS 391.755 is hereby amended to read as follows:

391.755 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.750, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.760, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.820.

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.650 to 391.830, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h), (p), (s) , ~~[and]~~ (t) *and (u)* of subsection 1 of NRS 391.750.

Sec. 21. Chapter 394 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 to 32, inclusive, of this act.

Sec. 22. As used in sections 22 to 32, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 23 and 24 of this act have the meanings ascribed to them in those sections.

Sec. 23. "Sexual misconduct" has the meaning ascribed to it in section 4 of this act.

Sec. 24. "Sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 25. 1. Any applicant for employment with a private school who may have direct contact with pupils must, as a condition to employment,

submit to the governing body of the private school with which the applicant seeks to obtain employment, on a form prescribed by the Department:

(a) The name, address and telephone number for the applicant's current employer, any former employer of the applicant that was a school or school district and any other former employer with whom the applicant was employed in a position that involved direct contact with children;

(b) Any other contact information for the employer or former employer described in paragraph (a) prescribed by the governing body of the school with which the applicant seeks to obtain employment;

(c) Written authorization for the employer or former employer described in paragraph (a) to release the information prescribed in section 26 of this act; and

(d) A written statement indicating whether the applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by an employer, licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency. An applicant is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer or agency determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation, and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. Any action brought by an applicant for employment described in subsection 1 against the governing body of a private school or an employee thereof which is based upon information obtained by the governing body of the private school with which the applicant seeks employment to determine the fitness of the applicant for employment, including, without limitation, an action for defamation, must be brought in a court in the State of Nevada and governed by the laws of this State.

3. Any applicant for employment described in subsection 1 who knowingly provides false information or willfully fails to disclose any information required by this section:

(a) Is subject to discipline, including, without limitation, termination of employment or a civil penalty pursuant to section 32 of this act; and

(b) Is guilty of a misdemeanor.

Sec. 26. *1. Upon receipt of the information required by section 25 of this act, the governing body of a private school shall contact each employer and former employer described in paragraph (a) of subsection 1 of section 25 of this act and request that the employer provide:*

(a) The dates of employment of the applicant; and

(b) On a form prescribed by the Department, a written statement indicating whether the applicant has:

(1) Except as otherwise provided in this subparagraph, been the subject of an investigation concerning an alleged sexual offense conducted by the employer. An employer or former employer is not required to provide the information described in this subparagraph if, after investigating the alleged violation, the employer determined that the allegations were false, unfounded, unsubstantiated or inconclusive.

(2) Been discharged, disciplined, had a contract not renewed, asked to resign from employment, resigned from employment or otherwise separated from employment while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

(3) Had a license or certificate suspended or revoked or has been required to surrender a license or certificate while an investigation concerning an alleged sexual offense was pending or upon conclusion of such an investigation and was found, upon conclusion of the investigation, to have committed the sexual offense.

2. An employer or former employer contacted by a governing body of a private school pursuant to subsection 1:

(a) Shall provide the information requested not later than 20 days after the date on which the governing body contacts the employer or former employer.

(b) Is immune from civil and criminal liability for any act relating to the provision of such information, unless the employer or former employer knowingly provides false information. Such information is privileged and must not be used as the basis for any action against the person or entity that provided the information.

3. Except as otherwise prohibited by federal or state law, an employer or former employer that willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 32 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 27. *1. If a statement provided pursuant to paragraph (d) of subsection 1 of section 25 of this act or paragraph (b) of subsection 1 of section 26 of this act indicates that the applicant meets any of the criteria*

prescribed in those paragraphs, the governing body of the private school that receives the statement shall request the employer that conducted the investigation concerning an alleged sexual offense, discharged, disciplined or dismissed the employee or asked the employee to resign from employment to provide additional information concerning the matter and all records related to the matter, including, without limitation, any documents relating to a disciplinary action taken against the employee, disciplinary records or documents used in the decision made by the employer concerning the investigation.

2. An employer contacted by the governing body of a private school pursuant to subsection 1:

(a) Except as otherwise provided in this subsection, shall provide the information requested not later than 60 days after the date on which the governing body contacts the employer.

(b) Is immune from civil and criminal liability to the same extent provided in paragraph (b) of subsection 2 of section 26 of this act.

3. Except as otherwise prohibited by federal or state law, an employer who willfully fails to disclose any information required by subsection 1 is subject to discipline, including, without limitation, a civil penalty pursuant to section 32 of this act.

4. In addition to the penalty set forth in subsection 3, a private school that willfully fails to disclose any information required by subsection 1 is subject to discipline, which may include, without limitation, being placed on a plan of corrective action by the Department.

Sec. 28. The governing body of a private school:

1. May consider the information submitted pursuant to sections 25, 26 and 27 of this act when deciding whether to employ an applicant or continue to employ a person.

2. May report the information submitted pursuant to sections 25, 26 and 27 of this act to the Department or a licensing agency, law enforcement agency, agency which provides child welfare services, agency which provides child protective services or a similar agency.

3. Shall not be held liable for any damages resulting from the failure of an entity not subject to the jurisdiction of this State to respond to a request for information pursuant to section 26 or 27 of this act or any inaccuracy or omission in the information submitted to the private school pursuant to section 26 or 27 of this act.

4. Is immune from civil or criminal liability for considering the information submitted pursuant to sections 25, 26 and 27 of this act when deciding whether to employ an applicant or continue to employ a person.

Sec. 29. The governing body of a private school may authorize provisional employment of a person for a period not to exceed 90 days pending the review of information submitted pursuant to sections 25, 26 and 27 of this act if the governing body determines the applicant is otherwise qualified and:

1. The applicant provided the statement described in paragraph (d) of subsection 1 of section 25 of this act.

2. The governing body of the private school has no knowledge of information pertaining to the applicant that would disqualify the applicant from employment.

3. The applicant swears or affirms that he or she is not disqualified from employment.

4. The applicant is directly supervised by a permanent employee in any duties that involve direct contact with pupils. The supervision must be such that the applicant is in the immediate location of the permanent employee and is readily available during such times as supervision is required.

Sec. 30. *Nothing in sections 22 to 32, inclusive, of this act shall be construed to:*

1. Prevent a governing body of a private school from:

(a) Conducting further investigations of a prospective employee; or

(b) Requiring an applicant to submit additional information or authorizations beyond what is required by sections 25, 26 and 27 of this act.

2. Prohibit a person or governmental entity from disclosing more information than is required by sections 25, 26 and 27 of this act.

3. Relieve a person of a duty to report prescribed by NRS 432B.220 or any other provision of state or federal law.

Sec. 31. *1. The governing body of a private school shall not enter into an agreement that:*

(a) Has the effect of suppressing information relating to an investigation concerning a report of suspected abuse or sexual misconduct by a current or former employee.

(b) Affects the ability of the private school to report suspected abuse or sexual misconduct to the appropriate authorities.

(c) Requires the private school to expunge information about allegations or findings of suspected abuse or sexual misconduct from any documents maintained by the private school unless, after investigating the alleged violation, the private school determines that the allegations were false, unfounded, unsubstantiated or inconclusive.

2. If an agreement requires the removal of a document from the personnel file of an employee, the private school must maintain the document with the agreement.

3. Any provisions in an agreement that violate the provisions of this section are void.

Sec. 32. *Any person who willfully violates any provision of sections 22 to 32, inclusive, of this act is subject to a civil penalty of not more than $10,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.*

Sec. 33. NRS 394.251 is hereby amended to read as follows:

394.251 1. Each elementary or secondary educational institution desiring to operate in this State must apply to the Superintendent upon forms provided by the Department. The application must be accompanied by the catalog or brochure published or proposed to be published by the institution. The application must also be accompanied by ~~[evidence]~~ *:*

(a) Evidence of the required surety bond or certificate of deposit and payment of the fees required by law ~~[.]~~ *; and*

(b) Documentation of the actions the institution has taken to comply with the requirements prescribed in sections 25, 26 and 27 of this act.

2. After review of the application and any further information required by the Superintendent, and an investigation of the applicant if necessary, the Board shall either grant or deny a license to operate to the applicant. *The Board must deny a license to operate to an applicant who does not provide the documentation required by paragraph (b) of subsection 1.*

3. The license must state in a clear and conspicuous manner at least the following information:

(a) The date of issuance, effective date and term of the license.

(b) The correct name and address of the institution licensed to operate.

(c) The authority for approval and conditions of operation.

(d) Any limitation of the authorization, as considered necessary by the Board.

4. Except as otherwise provided in this subsection, the term for which authorization is given must not exceed 2 years. A provisional license may be issued for a shorter period of time if the Board finds that the applicant has not fully complied with the standards established by NRS 394.241. Authorization may be given for a term of not more than 4 years if:

(a) The institution has been licensed to operate for not less than 4 years preceding the authorization; and

(b) The institution has operated during that period without the filing of a verified complaint against it and without violating any provision of NRS 394.201 to 394.351, inclusive, or any regulation adopted pursuant to those sections.

5. The license must be issued to the owner or governing body of the applicant institution and is nontransferable. If a change in ownership of the institution occurs, the new owner or governing body must, within 10 days after the change in ownership, apply for a new license, and if it fails to do so, the institution's license terminates. Application for a new license because of a change in ownership of the institution is, for purposes of NRS 394.281, an application for renewal of the institution's license.

6. At least 60 days before the expiration of a license, the institution must complete and file with the Superintendent an application form for renewal of its license. The renewal application must ~~[be]~~ *:*

(a) Be reviewed and acted upon as provided in this section ~~[.]~~ *; and*

(b) Include documentation of the actions the institution has taken to comply with the requirements prescribed in sections 25, 26 and 27 of this act.

7. An institution not yet in operation when its application for a license is filed may not begin operation until the license is issued. An institution in operation when its application for a license is filed may continue operation until its application is acted upon by the Board, and thereafter its authority to operate is governed by the action of the Board.

~~[Sec. 21.]~~ *Sec. 34.* NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340,

483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 16 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. 22.]~~ *Sec. 35.* NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; 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 child has been abused or neglected.

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 or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare 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, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare

services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A person providing services licensed or certified in this State pursuant to, without limitation, chapter 450B, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637B, 639, 640, 640A, 640B, 640C, 640D, 640E, 641, 641A, 641B or 641C of NRS.

(b) Any personnel of a medical facility licensed pursuant to chapter 449 of NRS who are engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of such a medical facility upon notification of suspected abuse or neglect of a child by a member of the staff of the medical facility.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A person working in a school who is licensed or endorsed pursuant to chapter 391 or 641B of NRS.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed pursuant to chapter 424 of NRS to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) Except as otherwise provided in NRS 432B.225, an attorney.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, "youth shelter" has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children ~~[.]~~ *, including, without limitation, a person who is employed by a school district or public school as defined in NRS 385.007.*

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 a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the

report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

(a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;

(b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and

(c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

~~[Sec. 23.]~~ *Sec. 36.* The provisions of ~~[section]~~ sections 15 and 31 of this act do not apply to any agreement entered into before July 1, 2017, until the agreement is extended or renewed.

~~[Sec. 24.]~~ *Sec. 37.* The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 25.]~~ *Sec. 38.* This act becomes effective on July 1, 2017.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Earlier today, we had to rescind a motion because Amendment No. 1124 to Assembly Bill No. 362 is more expansive and ensures that private schools are included so people who are pedophiles do not jump from public to private schools without being detected.

Amendment adopted.

Bill read third time.

Remarks by Senator Hammond.

This puts into the law the same requirement for private schools that are on public schools.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 16.

Resolution read third time.

The following amendment was proposed by Senators Spearman, Atkinson, Cancela, Cannizzaro, Ford, Manendo, Parks, Ratti and Woodhouse:

Amendment No. 1087.

SUMMARY—Proposes to amend the Nevada Constitution to provide for equal protection under the law, ~~[and]~~ prohibit discrimination on the basis of gender ~~[.]~~ and provide for a woman's right to choose whether to give birth or terminate a pregnancy and prohibit certain discrimination for the exercise of that right. (BDR C-1233)

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide for equal protection under the law, ~~[and]~~ prohibit discrimination on the basis of gender ~~[.]~~ and provide for a woman's right to choose whether to give birth or terminate a pregnancy and prohibit certain discrimination for the exercise of that right.

Legislative Counsel's Digest:

This joint resolution proposes to amend the Nevada Constitution by adding a new section to Article 1 to provide for equal protection under the law and prohibit discrimination on the basis of gender. This joint resolution further provides ~~[that the right to equal protection under the law and prohibition on discrimination does not create any right relating to abortion or funding thereof.]~~ for a woman's right to choose to give birth or terminate a pregnancy and prohibits discrimination in the provision of benefits, facilities, services or information for the exercise of that right.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 1A, be added to Article 1 of the Nevada Constitution to read as follows:

Sec. 1A. 1. No person shall be denied equal protection of the laws, nor shall any person be discriminated against on the basis of gender by the State, an agent of the State or any person doing business with the State.

2. ~~*[This section does not create or secure any right relating to abortion or the funding thereof.]*~~ *No woman shall be denied the right to choose to give birth, terminate a pregnancy before fetal viability, or terminate a pregnancy after fetal viability where termination of the*

pregnancy is necessary to protect the life or health of the woman, nor shall any woman be discriminated against for the exercise of the right granted in this subsection in the regulation or provision of benefits, facilities, services or information related to this right.

SENATOR ROBERSON:
Point of order, Mr. President. I do not believe we have the accurate copy of the amendment on our desk. We have an amendment that says one thing in the summary and something different in the body. And, it looks like it is incomplete because it goes from the cover page and then the next page is enumerated No. 3. Before we consider this, I would like to see an accurate copy of what we are voting on.

PRESIDENT HUTCHISON:
Point of order is well taken.

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

Senate in recess at 9:04 a.m.

SENATE IN SESSION

At 9:13 p.m.
President Hutchison presiding.
Quorum present.

Senator Spearman moved the adoption of the amendment.
Remarks by Senators Spearman, Roberson, Hardy and Segerblom.

SENATOR SPEARMAN:
Amendment No. 1087 to Senate Joint Resolution No. 16 deletes subsection 2 of section 1A which provides that the right to equal protection under the law and the prohibition on discrimination does not create any right relating to abortion or the funding thereof.

SENATOR ROBERSON:
I agree with the words just spoken by the Senator from District No. 1, but that is not what the amendment now says. Earlier in this Session, I spoke at length on existing jurisprudence relating to equal rights amendments in state constitutions and how they have been used to require taxpayer-funded abortions. I tried to address that issue with this resolution with each of my colleagues in the Republican caucus. We have attempted to address this issue while still providing constitutional protections against gender discrimination. I support Senate Joint Resolution No. 16 in its original, unamended form, which would provide equal protection under the law and prohibit discrimination based on gender, period. It does not affect existing law under *Roe v. Wade* or the existing protections for access to abortion in our State Constitution. The amendment that has been proposed, tonight, would require State taxpayers to fund abortions. It will undercut the federal Hyde amendment, which prohibits federal funding for abortions, by requiring State funding to be provided for abortion just as it has in New Mexico and other states. When this Body debated Senate Joint Resolution No. 2, the ratification of the ERA, even though the time period for ratification had expired decades ago, the sponsor of the bill, the Senator for District No. 1, said: "Abortion is not part of S.J.R. No. 2, it is not a law that allows unfettered abortions. It is not about abortion." This taxpayer-funded abortion amendment proves otherwise. You do not have to take my word for this; you can read my speech on this from earlier in the Session. I will abbreviate it by saying that a 1998 ruling by the New Mexico Supreme Court provides the clearest and most recent demonstration of the real power of this legal argument. New Mexico adopted an ERA to its state constitution that is similar to the 1972 federal proposal. Every justice of the New Mexico supreme court agreed that this classic ERA language mandated

taxpayer-funded abortions. The unanimous court held that under a heightened level of scrutiny, which was applied due to the state constitutional amendment on equal rights, a state ban on taxpayer-funded abortions undoubtable singled out for less favorable treatment a gender-linked condition that is unique to women. The proposal before us, tonight, goes much farther than the ERA language in New Mexico and would undoubtedly mandate taxpayer-funded abortions in this State. I reject this amendment. It is an unfriendly amendment. We were not consulted about it, and those who vote for it are voting to require taxpayer-funded abortions. I it is as simple as that.

SENATOR HARDY:

I rise in opposition to the amendment. From the standpoint of a medical approach, lines 7 and 8 list things that cannot be discriminated against as granted, but those benefits would include RU486, that has been responsible for over 2 million abortions. It would allow an emergency room, doctor, nurse or a pharmacist to have the benefit of an abortion. It would allow the facilities, including Dignity Health System, which is a Catholic health facility, to go against their moral objections to abortions. Services would include vacuum extraction up to the fourth or fifth month of pregnancy. Those are benefits and services that would be covered in this amendment. This is not the right thing to do, and it would allow for State-funded abortion.

SENATOR SEGERBLOM:

I was not going to speak but feel I need to. I find it interesting that the men are telling the women what to do. This is a women's right, and it puts in into the Constitution.

Senator Gustavson moved that Senate Joint Resolution No. 16 be taken from the General File and placed on the Secretary's desk.

Motion lost on a division of the House.

Remarks by Senators Ford and Roberson.

SENATOR FORD:

I appreciate the opinion of my colleagues, but we inquired and have received from Counsel the information that all this amendment does is codify current United States Supreme Court Constitutional interpretations of a woman's right, nothing more, nothing less. If you believe the Supreme Court has interpreted this to allow state-funded abortions, then, that may be why you would read this amendment that way. I do not know of a constitutional interpretation that has made this interpretation.

SENATOR ROBERSON:

Point of order. I would like to see a copy of that opinion.

SENATOR FORD:

It was not a written opinion; it was an oral opinion that occurred here on the Floor. I can ask our Counsel to return to the Floor and have him speak to you.

SENATOR ROBERSON:

I would like to hear that as it contradicts many things I have researched this Session. I would love to hear the opinion of our Legal Counsel Bureau.

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

Senate in recess at 9:23 p.m.

SENATE IN SESSION

At 9:50 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Pursuant to Senate Standing Rule No. 112.4, Senator Hardy requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Roberson requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Settelmeyer requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Gansert requested her name be removed as a sponsor of Senate Joint Resolution No. 16.

Remarks by Senator Harris.

Upon talking to Legal Counsel, this will be a snapshot in time. The amendment will freeze federal law as it exists at the time the constitutional amendment would go into effect. In 1990, by referendum, Nevada voters approved The Freedom of Choice Act, which is currently codified in NRS 442.250. This is the reason why the Legislature is not able to discuss or introduce measures with regard to reproductive freedom rights for women. The Freedom of Choice Act, which is now the State law of Nevada, actually does more to protect women's rights to abortion than federal law currently does. Because, it says a woman has the right to an abortion even if the *U.S. Supreme Court's 1973 Roe vs. Wade* decision is overturned. However, the current amendment does not reflect my intent when I signed on to this legislation.

Pursuant to Senate Standing Rule No. 112.4, Senator Harris requested her name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Hammond requested his name be removed as a sponsor to Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Kieckhefer requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Goicoechea requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4, Senator Gustavson requested his name be removed as a sponsor of Senate Joint Resolution No. 16.

Pursuant to Senate Standing Rule No. 112.4 and the removal of all sponsors' names from Senate Joint Resolution No. 16, Mr. President declared there be no further action on the resolution for the remainder of the 79th Session.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 481.

The following Assembly amendment was read:

Amendment No. 889.

SUMMARY—Creates the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired. (BDR 38-604)

AN ACT relating to disabilities; transforming the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities into the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired in the Office of the Governor; requiring the Governor to appoint a Director of the Commission; requiring the Aging and Disability Services Division of the Department of Health and Human Services to provide personnel, facilities, equipment and supplies to the Commission; revising the duties of the Commission; requiring the Legislative Committee on Health Care to study the sources of money available for certain purposes; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities. The Subcommittee consists of persons with knowledge of issues relating to communications disabilities who are appointed by the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services. The Subcommittee is authorized to: (1) make recommendations to the Commission concerning programs for persons with communications disabilities; (2) review services of the Division for persons with communications disabilities and advise the Division concerning such services; and (3) advise the Department of Education on ensuring the availability of language and communication services for children with communications disabilities. The Subcommittee is required to make recommendations to the Commission concerning the practices of interpreting and realtime captioning and to the Division concerning certain programs to provide assistive technology to persons with communications disabilities. (NRS 427A.750)

Section 5 of this bill changes the name of the Subcommittee to the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired. Section 5 also places the Commission in the Office of the Governor and requires the Governor to appoint the members of the Commission. Additionally, section 5 provides for the Commission to: (1) review the services and practices of all state and local governmental entities relating to persons who are deaf, hard of hearing or speech impaired and advise those entities directly; and (2) provide persons who are deaf, hard of hearing or speech impaired with information concerning services and resources that promote equality of opportunity for such persons. Section 4 of this bill makes a conforming change. Section 3 of this bill requires the Governor to appoint a Director of the Commission, who serves without compensation and performs such duties as directed by the Commission.

Section 5.5 of this bill requires the Legislative Committee on Health Care to study grants and other sources of money that may be available to transform the position of Director of the Commission into a full-time, paid position. Section 3 requires the Aging and Disability Services Division to provide the personnel, facilities, equipment and supplies required by the Commission to fulfill its duties.

Section 5.3 of this bill makes an appropriation of $25,000 from the State General Fund to the Commission in each fiscal year of the 2017-2019 biennium for per diem, travel and administrative costs of the Commission.

WHEREAS, Persons who are differently abled make up a significant part of the population of this State; and

WHEREAS, Persons who are deaf, hard of hearing or speech impaired contribute significantly to the general welfare of the people of this State; and

WHEREAS, Assisting persons who are deaf, hard of hearing or speech impaired to communicate effectively is necessary to maximize such contributions and allow such persons to achieve equality in education, employment and socialization; and

WHEREAS, Services that persons who are deaf, hard of hearing or speech impaired receive from state and local governmental agencies help them communicate effectively, maximizing their contributions and allowing them to achieve greater equality; and

WHEREAS, Persons who are deaf, hard of hearing or speech impaired need the ability to communicate effectively with state and local governmental entities to ensure that such persons receive services that are helpful to them in a manner that ensures their dignity and equality; now, therefore

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *As used in this section and NRS 427A.750 and section 3 of this act, unless the context otherwise requires, "Commission" means the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired created by NRS 427A.750.*

Sec. 3. *1. The Governor shall appoint the Director of the Commission. The Director:*

(a) Serves without compensation, at the pleasure of the Governor.

(b) Shall perform such duties as are directed by the Commission.

2. The Division shall provide the personnel, facilities, equipment and supplies required by the Commission to carry out the provisions of this section and NRS 427A.750.

Sec. 4. NRS 427A.1213 is hereby amended to read as follows:

427A.1213 1. The Commission shall, at its first meeting and annually thereafter, elect a Chair from among its voting members.

2. The Commission shall meet at least quarterly and at the times and places specified by a call of the Director, the Chair or a majority of the voting members of the Commission.

3. A majority of the voting members of the Commission constitutes a quorum for the transaction of all business.

4. The Commission shall establish rules for its own governance.

5. Except as otherwise provided in NRS 426.731 , ~~[and 427A.750,]~~ the Chair may appoint subcommittees and advisory committees composed of the members of the Commission, former members of the Commission and members of the general public who have experience with or knowledge of matters relating to persons with disabilities, to consider specific problems or other matters that are related to and within the scope of the functions of the Commission. A subcommittee or advisory committee appointed pursuant to this subsection must not contain more than five members. To the extent practicable, the members of such a subcommittee or advisory committee must be representative of the various geographic areas and ethnic groups of this State.

Sec. 5. NRS 427A.750 is hereby amended to read as follows:

427A.750 1. The ~~[Subcommittee on Communication Services]~~ *Nevada Commission* for Persons Who Are Deaf , ~~[or]~~ Hard of Hearing ~~[and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities]~~ *or Speech Impaired* is hereby created ~~[.]~~ *within the Office of the Governor*. The ~~[Subcommittee]~~ *Commission* consists of nine members appointed by the ~~[Administrator.]~~ *Governor*. The ~~[Administrator]~~ *Governor* shall consider recommendations made by the Nevada Commission on Services for Persons with Disabilities and appoint to the ~~[Subcommittee:]~~ *Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired:*

(a) One nonvoting member who is employed by the ~~[Division]~~ *State* and who participates in the administration of the ~~[program]~~ *programs* of this State that ~~[provides]~~ *provide* services to persons ~~[with communications disabilities which affect their ability to communicate;]~~ *who are deaf, hard of hearing or speech impaired;*

(b) One member who is a member of the Nevada Association of the Deaf, or, if it ceases to exist, one member who represents an organization which has a membership of persons who are deaf, hard of hearing or speech-impaired;

(c) One member who has experience with ~~[or an interest in]~~ and knowledge of ~~[the problems of and]~~ services for ~~[the]~~ *persons who are* deaf, hard of hearing or speech-impaired;

(d) One nonvoting member who is the Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, who represents the telecommunications industry;

(e) Three members who are users of telecommunications relay services or the services of persons engaged in the practice of interpreting or the practice of realtime captioning;

(f) One member who is a parent of a child who is deaf, hard of hearing or speech-impaired; and

(g) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons ~~[with communications disabilities]~~ *who are deaf, hard of hearing or speech impaired* in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.

2. After the initial term, the term of each member is 3 years. A member may be reappointed.

3. If a vacancy occurs during the term of a member, the ~~[Administrator]~~ *Governor* shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

4. The ~~[Subcommittee]~~ *Commission* shall:

(a) At its first meeting and annually thereafter, elect a Chair from among its voting members; and

(b) Meet at the call of the ~~[Administrator,]~~ *Governor or* the Chair ~~[of the Nevada Commission on Services for Persons with Disabilities, the Chair of the Subcommittee]~~ or a majority of its voting members as is necessary to carry out its responsibilities.

5. A majority of the voting members of the ~~[Subcommittee]~~ *Commission* constitutes a quorum for the transaction of business, and a majority of the voting members of a quorum present at any meeting is sufficient for any official action taken by the ~~[Subcommittee.]~~ *Commission.*

6. Members of the ~~[Subcommittee]~~ *Commission* serve without compensation, except that each member is entitled, while engaged in the business of the ~~[Subcommittee,]~~ *Commission,* to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

7. A member of the ~~[Subcommittee]~~ *Commission* who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the person may prepare for and attend meetings of the ~~[Subcommittee]~~ *Commission* and perform any work necessary to carry out the duties of the ~~[Subcommittee]~~ *Commission* in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the ~~[Subcommittee]~~ *Commission* to make up the time he or she is absent from work to carry out his or her duties as a member of the ~~[Subcommittee]~~ *Commission* or use annual vacation or compensatory time for the absence.

8. The ~~[Subcommittee]~~ *Commission* may:

(a) Make recommendations to ~~[the Nevada Commission on Services for Persons with Disabilities]~~ *any state agency, including, without limitation, the*

Division, concerning the establishment and operation of programs for persons ~~[with communications disabilities which affect their ability to communicate.]~~ *who are deaf, hard of hearing or speech impaired to ensure equal access to state programs and activities.*

(b) Recommend to the ~~[Nevada Commission on Services for Persons with Disabilities]~~ *Governor* any proposed legislation concerning persons ~~[with communications disabilities which affect their ability to communicate.]~~ *who are deaf, hard of hearing or speech impaired.*

(c) Collect information concerning persons ~~[with communications disabilities which affect their ability to communicate.]~~ *who are deaf, hard of hearing or speech impaired.*

(d) Create and annually review a 5-year strategic plan consisting of short-term and long-term goals for services provided by or on behalf of the Division. In creating and reviewing any such plan, the ~~[Subcommittee]~~ *Commission* must solicit input from various persons, including, without limitation, persons ~~[with communications disabilities.]~~ *who are deaf, hard of hearing or speech impaired.*

(e) Review the goals, *policies,* programs and services of *state agencies, including, without limitation,* the Division ~~[for]~~ *, that serve* persons ~~[with communications disabilities]~~ *who are deaf, hard of hearing or speech impaired* and advise ~~[the Division]~~ *such agencies* regarding such goals, *policies,* programs and services, including, without limitation, the outcomes of services provided to persons ~~[with communications disabilities]~~ *who are deaf, hard of hearing or speech impaired* and the requirements imposed on providers.

(f) Based on information collected by the Department of Education, advise the Department of Education on research and methods to ensure the availability of language and communication services for children who are deaf, hard of hearing or speech-impaired.

(g) Consult with the personnel of any state agency, including, without limitation, the Division, concerning any matter relevant to the duties of the Commission. A state agency shall make available to the Commission any officer or employee of the agency with which the Commission wishes to consult pursuant to this paragraph.

9. The ~~[Subcommittee]~~ *Commission* shall ~~[make]~~ *:*

(a) Make recommendations to ~~[:~~

~~(a) The Nevada Commission on Services for Persons with Disabilities]~~ *the Division* concerning the practice of interpreting and the practice of realtime captioning, including, without limitation, the adoption of regulations to carry out the provisions of chapter 656A of NRS.

(b) ~~[The]~~ *Make recommendations to the* Division concerning all programs and activities funded by the surcharge imposed pursuant to subsection 3 of NRS 427A.797.

(c) Provide persons who are deaf, hard of hearing or speech impaired with information concerning services and resources that promote equality for

such persons in education, employment and socialization and referrals for such services and resources;

(d) Review the procedures and practices of state and local governmental entities to ensure that persons who are deaf, hard of hearing or speech impaired have equal access to resources and services provided by those governmental entities; and

(e) Make recommendations to state and local governmental entities concerning:

(1) Compliance with laws and regulations concerning persons who are deaf, hard of hearing or speech impaired, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(2) Improving the health, safety, welfare and comfort of persons who are deaf, hard of hearing or speech impaired; and

(3) Integrating services and programs for persons who are deaf, hard of hearing or speech impaired and improving cooperation among state and local governmental entities that provide such services.

10. As used in this section:

(a) ~~["Nevada Commission on Services for Persons with Disabilities" means the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.~~

~~(b)]~~ "Practice of interpreting" has the meaning ascribed to it in NRS 656A.060.

~~[(c)]~~ *(b)* "Practice of realtime captioning" has the meaning ascribed to it in NRS 656A.062.

~~[(d)]~~ *(c)* "Telecommunications relay services" has the meaning ascribed to it in 47 C.F.R. § 64.601.

Sec. 5.3. 1. There is hereby appropriated from the State General Fund to the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired created by NRS 427A.750, as amended by section 5 of this act, for per diem, travel and administrative costs of the Commission the following sums:

For the Fiscal Year 2017-2018 ..... $25,000

For the Fiscal Year 2018-2019 ..... $25,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

Sec. 5.5. During the 2017-2018 interim, the Legislative Committee on Health Care shall study grants and other sources of money that may be

available to transform the position of Director of the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired, appointed pursuant to section 3 of this act, into a full-time, paid position. On or before September 1, 2018, the Committee shall submit its findings to:

1. The Aging and Disability Services Division of the Department of Health and Human Services;

2. The Governor; and

3. The Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Legislature.

Sec. 6. Notwithstanding the amendatory provisions of this act, a member of the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities who was appointed pursuant to NRS 427A.750 as that section existed on June 30, 2017, and who is serving a term on July 1, 2017, is entitled to serve the remainder of the term to which he or she was appointed as a member of the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired created by NRS 427A.750, as amended by section 5 of this act.

Sec. 7. This act becomes effective on July 1, 2017.

Senator Spearman moved that the Senate concur in Assembly Amendment No. 889 to Senate Bill No. 481.

Remarks by Senator Spearman.

This amendment makes appropriations of $25,000 each year of the 2017-19 biennium so the Commission for the Deaf can have administrative services and travel funds.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 69.

The following Assembly amendment was read:

Amendment No. 1014.

SUMMARY—Revises provisions governing state agencies, boards and commissions that regulate occupations and professions. (BDR 54-229)

AN ACT relating to regulatory bodies; ~~[authorizing the Governor to issue an executive order directing a regulatory body to expedite action on pending applications for licensure;]~~ requiring certain regulatory bodies to adopt regulations governing the issuance of a license by endorsement to a natural person who holds a comparable license issued by the District of Columbia or any state or territory of the United States and meets certain other requirements; prohibiting the appointment as a member of a regulatory body of a person who has served as a member for 12 years or more under certain circumstances; prohibiting regulatory bodies from entering into an agreement for the payment of fees for legal services on a contingent basis; ~~[revising the information required to be included with an application for the issuance of a license to practice medicine and the biennial registration of a physician;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of certain occupations and professions in this State. (Title 54 of NRS) The various state agencies, boards and commissions that are authorized to license and regulate particular occupations or professions are generally referred to as "regulatory bodies." (NRS 622.060)

~~[Section 2 of this bill provides that if the Governor determines that there are critical unmet needs with regard to the number of persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body that adversely affect public health or safety, the Governor may, by executive order, direct the regulatory body to take final action on all completed applications for licensure in its possession within the time specified by the executive order. Section 2 also sets forth the factors that the Governor may consider in determining whether there are such critical unmet needs.]~~

Section 3 of this bill requires a regulatory body that is not otherwise authorized or required by specific statute to issue a license to engage in an occupation or profession in this State to a natural person who has been issued a comparable license by another jurisdiction to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to a natural person who: (1) holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and (3) satisfies certain other requirements.

Section 4 of this bill establishes term limits for members of regulatory bodies. Specifically, section 4 provides that a person may not be appointed as a member of a regulatory body if the person has served as a member of that regulatory body, or at the expiration of his or her current term if he or she is so serving will have served, 12 years or more at the time of his or her appointment, unless the person is serving as a member of a regulatory body with less than 250 licensees.

Existing law establishes specific requirements that must be satisfied before certain state agencies or officials may enter into a contingent fee contract with an attorney or law firm. (NRS 228.111-228.1118) Section 5 of this bill prohibits any regulatory body from entering into such a contract. Section 8 of this bill makes a conforming change.

~~[Existing law requires a regulatory body to exercise its authority over an occupation or profession for the protection and benefit of the public. (NRS 622.080) Section 6 of this bill requires a regulatory body also to exercise its authority over the occupation or profession for the expansion of economic opportunity, promotion of competition and encouragement of innovation. Section 6 also imposes certain limitations on the manner in~~

~~which a regulatory body may exercise its authority over an occupation or profession.]~~

Existing law requires each regulatory body to submit a quarterly report to the Director of the Legislative Counsel Bureau that includes certain information concerning the disciplinary actions taken and the number of licenses issued by the regulatory body during the immediately preceding calendar quarter. (NRS 622.100) Section 7 of this bill requires the regulatory body also to include in the report: (1) the total number of applications for licensure received by the regulatory body; (2) the number of applications rejected by the regulatory body as incomplete; (3) the average number of days between the date of rejection of an application as incomplete and the resubmission by the applicant of a complete application; (4) a list of each reason given by the regulatory body for the denial of an application and the number of applications denied by the regulatory body for each such reason; and (5) the number of applications reviewed on an individual basis by the regulatory body or the executive head of the regulatory body.

~~[Existing law requires an applicant for a license to practice medicine to submit to the Board of Medical Examiners a description of any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by the licensing board of another state. (NRS 630.173) Section 7.3 of this bill provides that an applicant for such a license is not required to report with his or her application: (1) an anonymous complaint submitted to the licensing board of another state if such a board refused to consider or investigate the anonymous complaint; or (2) a complaint filed against the applicant that did not result in any disciplinary action taken against the applicant by the licensing board of another state.~~

~~Existing law also requires each holder of a license to practice medicine to register with the Board on or before June 30 of each odd-numbered year and provides that each license issued will expire if not renewed. Existing law further requires each holder of a license to practice medicine, when registering with the Board, to submit a list of all actions filed or claims submitted for malpractice against him or her during the previous 2 years. (NRS 630.267) Section 7.6 of this bill provides that the holder of such a license does not need to report with his or her biennial registration: (1) an anonymous complaint submitted to the Board that the Board refused to consider; or (2) a complaint filed against the holder of such a license that did not result in any disciplinary action taken against the holder by the Board.]~~

Section 18 of Senate Bill No. 516 of this session creates the Office of Workforce Innovation in the Office of the Governor. Section 19 of Senate Bill No. 516 of this session requires the Governor to appoint the Executive Director of the Office of Workforce Innovation. Section 9.5 of this bill requires the Executive Director of the Office of Workforce Innovation, on or before January 1 of each year, to submit to the Director of the Legislative Counsel Bureau a written report that includes: (1) the number of persons in

this State who are engaged in an occupation or profession that is regulated by a regulatory body; and (2) the demand for the services of such persons engaged in such a regulated occupation or profession.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ~~[*1. If the Governor determines, according to the provisions set forth in subsection 2, that there are critical unmet needs with regard to the number of persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body and such unmet needs adversely affect public health or safety, the Governor may, by executive order, direct the regulatory body to take final action on all completed applications for licensure in the possession of the regulatory body within the time specified by the executive order.*~~

~~*2. Except as otherwise provided by specific statute, in determining whether there is a critically unmet need as described in subsection 1 that adversely affects public health or safety, the Governor may consider, without limitation:*~~

~~*(a) Statistical data based on an analysis of the number of persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body in relation to the total population of this State or any geographic area within this State;*~~

~~*(b) The demand within this State or any geographic area within this State for types of services provided by persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body; and*~~

~~*(c) Any other factors relating to the types of services provided by persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body that adversely affect public health or safety.*~~

~~*3. As used in this section, "final action" means the approval or denial of an application for a license by a regulatory body.]*~~ (Deleted by amendment.)

Sec. 3. *1. Except as otherwise provided by specific statute relating to the issuance of a license by endorsement, a regulatory body shall adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to any* natural *person who:*

(a) Holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States;

(b) Possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and

(c) Satisfies the requirements of this section and the regulations ~~*[.]*~~ *adopted pursuant thereto.*

2. The regulations adopted pursuant to subsection 1 must not allow the issuance of a license by endorsement to engage in an occupation or profession in this State to a natural person unless ~~[the]~~ such a person:

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

(b) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license to engage in an occupation or profession;

(c) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her occupation or profession;

(d) Has not had a license to engage in an occupation or profession suspended or revoked in the District of Columbia or any state or territory of the United States;

(e) Has not been refused a license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States for any reason;

(f) Does not have pending any disciplinary action concerning his or her license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States;

(g) Pays any applicable fees for the issuance of a license that are otherwise required for a natural person to obtain a license in this State;

(h) Submits to the regulatory body a complete set of his or her fingerprints and written permission authorizing the regulatory body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check; and

(i) Submits to the regulatory body the statement required by NRS 425.520.

3. A regulatory body may, by regulation, require an applicant for issuance of a license by endorsement to engage in an occupation or profession in this State to submit with his or her application:

(a) Proof satisfactory to the regulatory body that the applicant:

(1) Has achieved a passing score on a nationally recognized, nationally accredited or nationally certified examination or other examination approved by the regulatory body;

(2) Has completed the requirements of an appropriate vocational, academic or professional program of study in the occupation or profession for which the applicant is seeking a license by endorsement in this State;

(3) Has engaged in the occupation or profession for which the applicant is seeking a license by endorsement in this State pursuant to the applicant's existing licensure for the period determined by the regulatory body preceding the date of the application; and

(4) Possesses a sufficient degree of competency in the occupation or profession for which he or she is seeking licensure by endorsement in this State;

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

(c) Any other information required by the regulatory body.

4. Not later than ~~[15]~~ 21 business days after receiving an application for a license by endorsement to engage in an occupation or profession pursuant to this section, the regulatory body shall provide written notice to the applicant of any additional information required by the regulatory body to consider the application. Unless the regulatory body denies the application for good cause, the regulatory body shall approve the application and issue a license by endorsement to engage in the occupation or profession to the applicant not later than:

(a) ~~[Thirty]~~ Sixty days after receiving the application;

(b) If the regulatory body requires an applicant to submit fingerprints and authorize the preparation of a report on the applicant's background based on the submission of the applicant's fingerprints, ~~[10]~~ 15 days after the regulatory body receives the report; or

(c) If the regulatory body requires the filing and maintenance of a bond as a requirement for the issuance of a license, ~~[10]~~ 15 days after the filing of the bond with the regulatory body,

➥ whichever occurs later.

5. A license by endorsement to engage in an occupation or profession in this State issued pursuant to this section may be issued at a meeting of the regulatory body or between its meetings by the presiding member of the regulatory body and the executive head of the regulatory body. Such an action shall be deemed to be an action of the regulatory body.

6. A regulatory body may deny an application for licensure by endorsement if:

(a) An applicant willfully fails to comply with the provisions of paragraph (h) of subsection 2; or

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the regulatory body has not previously taken disciplinary action against the licensee based on that conviction.

7. The provisions of this section are intended to supplement other provisions of statute governing licensure by endorsement. If any provision of statute conflicts with this section, the other provision of statute prevails over this section to the extent that the other provisions provide more specific requirements relating to licensure by endorsement.

Sec. 4. *1. Except as otherwise provided in subsection 2, notwithstanding any other provision of law, a person may not be appointed as a member of a regulatory body if the person has served as a member of*

that regulatory body, or at the expiration of his or her current term if he or she is so serving will have served, 12 years or more at the time of his or her appointment.

2. The provisions of subsection 1 do not apply to a person who has served as a member of a regulatory body which has less than 250 licensees.

Sec. 5. *1. Notwithstanding the provisions of NRS 228.111 to 228.1118, inclusive, and any other provision of law, a regulatory body shall not employ, retain or otherwise contract with an attorney or law firm pursuant to a contingent fee contract.*

2. As used in this section, "contingent fee contract" means a contract for legal services between a regulatory body and an attorney or law firm, pursuant to which the fee of the attorney or law firm is payable, in whole or in part, from any money recovered in a matter governed by the contract.

Sec. 6. ~~[NRS 622.080 is hereby amended to read as follows:~~

~~622.080 1. In regulating an occupation or profession pursuant to this title, each regulatory body shall carry out and enforce the provisions of this title for the [protection]~~:

~~*(a) Protection* and benefit of the public [.]~~;

~~*(b) Expansion of economic opportunity;*~~

~~*(c) Promotion of competition; and*~~

~~*(d) Encouragement of innovation.*~~

~~*2. In adopting regulations pursuant to chapter 233B of NRS, a regulatory body shall consider whether a regulation under consideration:*~~

~~*(a) Expands economic opportunity;*~~

~~*(b) Promotes competition; and*~~

~~*(c) Encourages innovation.*~~

~~*3. If a regulatory body finds it necessary to take action that may limit or reduce competition in an occupation or profession that it is authorized to regulate, the regulatory body shall select the regulatory action that limits or reduces such competition no more than is necessary to protect the public from present, significant and substantiated harms that threaten public health and safety.*~~

~~*4. A regulatory body shall not enforce a law or regulation against a person except to the extent that the person engages in conduct that is expressly included in a statute or regulation that establishes the authorized scope of practice of the occupation or profession.*~~

~~*5. Each regulatory body that issues a license by endorsement to engage in an occupation or profession in this State to a person who holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States shall ensure that its process of issuing such licenses is conducted with the highest possible levels of efficiency and transparency.]~~

(Deleted by amendment.)

Sec. 7. NRS 622.100 is hereby amended to read as follows:

622.100 1. Each regulatory body shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director:

(a) A summary of each disciplinary action taken by the regulatory body during the immediately preceding calendar quarter against any licensee of the regulatory body; and

(b) A report that includes:

(1) *For the immediately preceding calendar quarter:*

(I) The number of licenses issued by the regulatory body ~~[during the immediately preceding calendar quarter;]~~;

(II) The total number of applications for licensure received by the regulatory body;

(III) The number of applications rejected by the regulatory body as incomplete;

(IV) The average number of days between the date of rejection of an application as incomplete and the resubmission by the applicant of a complete application;

(V) A list of each reason given by the regulatory body for the denial of an application and the number of applications denied by the regulatory body for each such reason; and

(VI) The number of applications reviewed on an individual basis by the regulatory body or the executive head of the regulatory body; and

(2) Any other information that is requested by the Director or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

2. The Director shall:

(a) Provide any information received pursuant to subsection 1 to a member of the public upon request;

(b) Cause a notice of the availability of such information to be posted on the public website of the Nevada Legislature on the Internet; and

(c) Transmit a compilation of the information received pursuant to subsection 1 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

3. The Director, on or before the first day of each regular session of the Legislature and at such other times as directed, shall compile the reports received pursuant to paragraph (b) of subsection 1 and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, each of which shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Sec. 7.3. ~~[NRS 630.173 is hereby amended to read as follows:~~

~~630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:~~

~~(a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;~~

~~(b) [Any] *Except as otherwise provided in subsection 4, any* complaints filed against the applicant with a licensing board of another state [and] *that resulted in* any disciplinary action taken against the applicant by a licensing board of another state; and~~

~~(c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.~~

~~2. The Board may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.~~

~~3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.~~

~~*4. An applicant for a license to practice medicine is not required to submit information describing:*~~

~~*(a) An anonymous complaint that the licensing board of another state refused to consider or investigate; or*~~

~~*(b) A complaint filed against the applicant that did not result in any disciplinary action taken against the applicant by the licensing board of another state.*~~

~~5. The Board shall not issue a license to the applicant until it has received all the information required by this section.]~~ (Deleted by amendment.)

Sec. 7.6. ~~[NRS 630.267 is hereby amended to read as follows:~~

~~630.267 1. Each holder of a license to practice medicine must, on or before June 30, or if June 30 is a Saturday, Sunday or legal holiday, on the next business day after June 30, of each odd-numbered year:~~

~~(a) [Submit] *Except as otherwise provided in subsection 2, submit* a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.~~

~~(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.~~

~~(c) Submit all information required to complete the biennial registration.~~

~~*2. A holder of a license to practice medicine is not required to submit with his or her biennial registration information describing:*~~

~~*(a) An anonymous complaint that the Board refused to consider pursuant to subsection 1 of NRS 630.307; or*~~

~~*(b) A complaint filed against the holder of the license that did not result in any disciplinary action taken against the holder of the license by the Board.*~~

~~3. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State expires. The holder may, within 2 years after the date the license expires, upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.~~

~~[3.] 4. The Board shall make such reasonable attempts as are practicable to notify a licensee:~~

~~(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and~~

~~(b) That his or her license has expired.~~

~~A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.]~~ (Deleted by amendment.)

Sec. 8. NRS 228.1111 is hereby amended to read as follows:

228.1111 1. ~~[The]~~ *Subject to the limitations of section 5 of this act, the* Attorney General or any other officer, agency or employee in the Executive Department of the State Government shall not enter into a contingent fee contract unless:

(a) The Governor, in consultation with the Attorney General, has determined in writing:

(1) That the Attorney General lacks the resources, skill or expertise to provide representation in the matter that is the subject of the proposed contract; and

(2) That representation pursuant to a contingent fee contract is cost-effective and in the public interest; and

(b) The proposed contract complies with the requirements of NRS 228.111 to 228.1118, inclusive.

2. Before entering into a contingent fee contract, the Attorney General or other officer, agency or employee, as applicable, must obtain approval from the Interim Finance Committee to commit money for that purpose.

Sec. 9. Section 3 of this act is hereby amended to read as follows:

Sec. 3. 1. Except as otherwise provided by specific statute relating to the issuance of a license by endorsement, a regulatory body shall adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to any natural person who:

(a) Holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States;

(b) Possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and

(c) Satisfies the requirements of this section and the regulations adopted pursuant thereto.

2. The regulations adopted pursuant to subsection 1 must not allow the issuance of a license by endorsement to engage in an occupation or profession in this State to a natural person unless such a person:

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

(b) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license to engage in an occupation or profession;

(c) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her occupation or profession;

(d) Has not had a license to engage in an occupation or profession suspended or revoked in the District of Columbia or any state or territory of the United States;

(e) Has not been refused a license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States for any reason;

(f) Does not have pending any disciplinary action concerning his or her license to engage in an occupation or profession in the District of Columbia or any state or territory of the United States;

(g) Pays any applicable fees for the issuance of a license that are otherwise required for a natural person to obtain a license in this State; *and*

(h) Submits to the regulatory body a complete set of his or her fingerprints and written permission authorizing the regulatory body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check. ~~[; and~~

~~(i) Submits to the regulatory body the statement required by NRS 425.520.]~~

3. A regulatory body may, by regulation, require an applicant for issuance of a license by endorsement to engage in an occupation or profession in this State to submit with his or her application:

(a) Proof satisfactory to the regulatory body that the applicant:

(1) Has achieved a passing score on a nationally recognized, nationally accredited or nationally certified examination or other examination approved by the regulatory body;

(2) Has completed the requirements of an appropriate vocational, academic or professional program of study in the occupation or profession for which the applicant is seeking a license by endorsement in this State;

(3) Has engaged in the occupation or profession for which the applicant is seeking a license by endorsement in this State pursuant to the applicant's existing licensure for the period determined by the regulatory body preceding the date of the application; and

(4) Possesses a sufficient degree of competency in the occupation or profession for which he or she is seeking licensure by endorsement in this State;

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

(c) Any other information required by the regulatory body.

4. Not later than 21 business days after receiving an application for a license by endorsement to engage in an occupation or profession pursuant to this section, the regulatory body shall provide written notice to the applicant of any additional information required by the regulatory body to consider the application. Unless the regulatory body denies the application for good cause, the regulatory body shall approve the application and issue a license by endorsement to engage in the occupation or profession to the applicant not later than:

(a) Sixty days after receiving the application;

(b) If the regulatory body requires an applicant to submit fingerprints and authorize the preparation of a report on the applicant's background based on the submission of the applicant's fingerprints, 15 days after the regulatory body receives the report; or

(c) If the regulatory body requires the filing and maintenance of a bond as a requirement for the issuance of a license, 15 days after the filing of the bond with the regulatory body,

➥ whichever occurs later.

5. A license by endorsement to engage in an occupation or profession in this State issued pursuant to this section may be issued at a meeting of the regulatory body or between its meetings by the presiding member of the regulatory body and the executive head of the regulatory body. Such an action shall be deemed to be an action of the regulatory body.

6. A regulatory body may deny an application for licensure by endorsement if:

(a) An applicant willfully fails to comply with the provisions of paragraph (h) of subsection 2; or

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the regulatory body has not previously taken disciplinary action against the licensee based on that conviction.

7. The provisions of this section are intended to supplement other provisions of statute governing licensure by endorsement. If any provision of statute conflicts with this section, the other provision of

statute prevails over this section to the extent that the other provisions provide more specific requirements relating to licensure by endorsement.

Sec. 9.5. Section 20 of Senate Bill No. 516 of this session is hereby amended to read as follows:

Sec. 20. The Executive Director of the Office of Workforce Innovation shall:

1. Provide support to the Office of the Governor, the Governor's Workforce Development Board created by NRS 232.935 and the industry sector councils established by the Governor's Workforce Development Board on matters relating to workforce development.

2. Work in coordination with the Office of Economic Development to establish criteria and goals for workforce development and diversification in this State.

3. Collect and systematize and present in biennial reports to the Governor and the Legislature such statistical details relating to workforce development in the State as the Executive Director of the Office may deem essential to further the objectives of the Office of Workforce Innovation.

4. At the direction of the Governor:

(a) Identify, recommend and implement policies related to workforce development.

(b) Define career pathways and identify priority career pathways for secondary and postsecondary education.

(c) Discontinue career pathways offered by the State which fail to meet minimum standards of quality, rigor and cross-education alignment, or that do not demonstrate a connection to priority industry needs.

(d) In consultation with the Governor's Workforce Development Board, identify industry-recognized credentials, workforce development programs and education.

(e) Maintain and oversee the statewide longitudinal data system that links data relating to early childhood education programs and K-12 public education with data relating to postsecondary education and the workforce in this State.

(f) Collect accurate educational data in the statewide longitudinal data system for the purpose of analyzing student performance through employment to assist in improving the educational system and workforce training program in this State.

(g) Apply for and administer grants, including, without limitation, those that may be available from funding reserved for statewide workforce investment activities.

(h) Review the status and structure of local workforce investment areas in the State, in coordination with the Governor and the Governor's Workforce Development Board.

(i) Report periodically to the Governor's Workforce Development Board concerning the administration of the policies and programs of the Office of Workforce Innovation.

(j) On or before March 31 of each year, submit to the Governor a complete report of the activities, discussions, findings and recommendations of the Office of Workforce Innovation.

(k) Oversee the State Apprenticeship Council and the State Apprenticeship Director pursuant to NRS 610.110 to 610.185, inclusive, and perform such other functions as may be necessary for the fulfillment of the intent and purposes of chapter 610 of NRS.

(l) Suggest improvements regarding the allocation of federal and state money to align workforce training and related education programs in the State, including, but not limited to, career and technical education.

(m) On or before January 1 of each year, collect and analyze data as needed to create a written report for the purposes of this paragraph, and submit such a report to the Director of the Legislative Counsel Bureau. The report must include, without limitation:

(1) Statistical data based on an analysis of the number of persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body in relation to the total population of this State or any geographic area within this State;

(2) The demand within this State or any geographic area within this State for the types of services provided by persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body; and

(3) Any other factors relating to the types of services provided by persons within this State who are engaged in an occupation or profession that is regulated by a regulatory body that adversely affect public health or safety.

➥ As used in this paragraph, "regulatory body" has the meaning ascribed to it in NRS 622.060.

Sec. 10. The provisions of section 4 of this act apply only to time served as a member of a regulatory body pursuant to an appointment made after the effective date of this act.

Sec. 11. The provisions of section 5 of this act do not apply to an agreement between a regulatory body and an attorney or law firm entered into before the effective date of this act, but do apply to any renewal or extension of such an agreement.

Sec. 12. 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. 13. A regulatory body that is required to adopt regulations pursuant to section 3 of this act shall adopt such regulations not later than February 1, 2018.

Sec. 14. 1. This section and sections 1 to ~~[7, inclusive,]~~ 8 , inclusive, and 10 to 13, inclusive, of this act become effective upon passage and approval.

2. ~~[Sections 7.3 and 7.6]~~ Section 9.5 of this act ~~[become]~~ becomes effective on July 1, 2017 ~~[.]~~ , if and only if Senate Bill No. 516 of this session is enacted by the Legislature and approved by the Governor.

3. Section 9 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Atkinson moved that the Senate do not concur in Assembly Amendment No. 1014 to Senate Bill No. 69.

Motion carried.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Senator Atkinson requested that his remarks be entered in the Journal.

Earlier today, I read the wrong floor statement for Assembly Bill No. 405 due to the fact that the wrong statement was attached to the bill. I would like to clarify this by reading the correct statement at this time.

Amendment No. 1100 makes ten changes to Assembly Bill No. 405. The amendment adds Senators Atkinson, Ford, Manendo and Spearman as joint sponsors of the bill. It also adds a legislative declaration regarding the necessity to provide for the immediate reestablishment of a rooftop solar market in Nevada. It amends sections 9, 12 and 15 of the bill to provide notice in the agreement that a host-customer may file a complaint with the Public Utilities Commission of Nevada (PUCN) and the agreement must contain the contact information for the PUCN.

It amends section 20 of the bill to authorize the PUCN, upon receipt of a complaint filed by a host-customer concerning a solar-installation company, to direct the host-customer to the appropriate agency or person to resolve the complaint; amends section 24 of the bill to add provisions to the Renewable Energy Bill of Rights concerning a person, who generates renewable energy under certain circumstances, be allowed to connect his or her renewable energy or energy-storage system or any combination thereof, with the electricity meter on the customer's side that is provided by an electric utility or any other person: in accordance with requirement established by the electric utility to ensure the safety of utility workers; and after providing written notice to the electric utility and installing a nomenclature plate on the electrical meter panel indicating that a renewable energy system or energy-storage system is present and meets all applicable State and local safety and electrical code requirements; deletes section 28 of the bill; and amends the bill to add section 28.3 to remove the net metering adjustment charge and instead require a utility to provide a credit for net metering systems with a capacity of less than 25 kilowatts. The credit for each kilowatt-hour of excess electricity must equal a percentage of the retail rate, which are tiered based on the amount of cumulative installed capacity of all net metering systems with a capacity of less than 25 kilowatts in this State.

It also amends the bill to add section 28.5 to require the PUCN to open an investigatory docket to establish a methodology to determine the impact, if any, of net metering. On or before June 30, 2020, and biennially thereafter, the PUCN must submit a report with specific information to the Director of the Legislative Counsel Bureau for transmittal to the next regular

Session of the Legislature; and amends the bill to add section 28.7 to address net metering if the "Energy Choice Initiative" is approved by the voters at the 2018 General Election. This section becomes effective on July 1, 2023, if and only a ballot question grants every person, business, association of persons or businesses, State agency, political subdivision or any other entity in this State the right to choose a provider of electric service. Finally, it deletes section 29 of the bill.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 206, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 348, 407, 434, 484, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was re-referred Senate Bill No. 302, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

JULIA RATTI, *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 206.

Bill read second time.

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

Amendment No. 1126.

SUMMARY—Revises provisions relating to renewable energy and the renewable portfolio standard. (BDR 58-746)

AN ACT relating to renewable energy; authorizing the establishment of certain programs for the purchase of electricity produced by certain renewable energy facilities; declaring the policy of this State concerning renewable energy; revising the portfolio standard for providers of electric service in this State; revising the manner in which providers of electric service may comply with the portfolio standard; expanding the definition of "provider of electric service" for the purposes of the portfolio standard; requiring the Public Utilities Commission of Nevada to revise any existing portfolio standard applicable to a provider of new electric resources to comply with the portfolio standard established by this act; revising provisions relating to the approval of a plan filed by an electric utility to increase the supply of electricity or reduce demand; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an electric utility in this State to apply to the Public Utilities Commission of Nevada for authority to establish a program of optional pricing for electricity that is generated from renewable energy.

Such a program may provide the customers of the utility with the option of paying a higher rate for electricity to support the increased use by the utility of renewable energy in the generation of electricity. (NRS 704.738) Section 1.4 of this bill provides that if the Commission makes certain determinations, the Commission may authorize an electric utility to establish a program to provide a retail customer of the electric utility the option to purchase electricity from a renewable energy facility owned by the utility or with which the utility has a contract for the purchase of electricity. Section 1.4 further authorizes the Commission: (1) upon the request of an electric utility, to exclude a renewable energy facility owned by the electric utility from the rate base of the utility; and (2) to determine a reasonable rate for the electricity generated by the renewable energy facility.

Section 2 of this bill sets forth findings and declarations of the Legislature that it is the policy of this State to: (1) encourage and accelerate the development of new renewable energy projects for the economic, health and environmental benefits provided to the people of this State; ~~[and]~~ (2) become a leading producer and consumer of clean and renewable energy ~~[, with a goal of achieving by 2040 an amount of renewable energy production of at least 80 percent of the electricity sold by providers of electric service in this State.]~~ ; and (3) ensure that the benefits of the increased use of portfolio energy systems and energy efficiency measures are received by the residents of this State.

Existing law requires the Public Utilities Commission of Nevada to establish a portfolio standard which requires each provider of electric service in this State to generate, acquire or save electricity from renewable energy systems or efficiency measures a certain percentage of the total amount of electricity sold by the provider to its retail customers in this State during a calendar year. (NRS 704.7821) Section 3 of this bill revises the portfolio standard for calendar year 2018 and each calendar year thereafter so that by calendar year 2030 and for each calendar year thereafter, each provider of electric service will be required to generate, acquire or save electricity from renewable energy systems or efficiency measures not less than ~~[50]~~ 40 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year. Section 3 also: (1) eliminates the requirement that a minimum percentage of the amount of electricity that the provider is required to generate, acquire or save be generated or acquired from solar renewable energy systems; ~~[and]~~ (2) provides that a provider of electric service is deemed to have complied with its portfolio standard for a calendar year if the average amount of portfolio energy credits earned by the provider during the calendar year and the immediately preceding 2 calendar years is equal to or greater than the average of the number of portfolio energy credits needed to comply with the provider's portfolio standard for those years; (3) revises, for the purposes of compliance with the portfolio standard, the provisions governing the calculation of the total amount of electricity sold by a provider to its retail

customers in this State ~~[.]~~ ; and (4) revises the circumstances under which the Commission is required to exempt a provider of electric service from the requirements of its portfolio standard for a calendar year.

Sections 1.5, 1.7, 2.2 and 2.7 of this bill provide for qualified energy storage systems to be used for compliance with the portfolio standard. Section 3 limits the use of such qualified energy storage systems to not more than 10 percent of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems.

~~[Sections 2.1 and 2.9 of this bill limit the facilities or energy systems that qualify as a renewable energy system for the purposes of the portfolio standard.]~~

Section 2.3 and 4.3 of this bill revise provisions governing the use of geothermal energy to comply with the portfolio standard.

Section 2.8 of this bill expands the definition of "provider of electric service" for the purposes of compliance with the portfolio standard. ~~[Sections]~~ Section 2.5 ~~[and 4.7]~~ of this bill ~~[provide that these additional entities which are providers]~~ provides that even though section 2.8 includes this State or an agency or instrumentality of this State in the definition of "provider of electric service" for the purposes of the portfolio standard ~~[are]~~ , this State or an agency or instrumentality of this State is not subject to the jurisdiction of the Commission . ~~[and are not required to provide certain reports to the Commission.]~~ Sections 2.4 and 7 of this bill provide that ~~[these additional entities]~~ if this State or an agency or instrumentality of this State sells electricity to retail customers for consumption in this State, the State or the agency or instrumentality must, beginning on July 1, 2020, and each year thereafter, provide reports to the Director of the Office of Energy.

Sections 3 and 4 of this bill provide that the portfolio standard established by NRS 704.7821 is applicable to providers of new electric resources, and also revises the limits on energy efficiency measures used to comply with the portfolio standard. Section 5 of this bill requires the Commission to revise certain portfolio standards established for a provider of new electric resources to comply with the revised portfolio standard established by section 3.

Existing law requires an electricity utility with an annual operating revenue of $2,500,000 or more in this State to submit to the Commission, on or before July 1 of every third year, a plan to increase its supply of electricity or decrease the demands on its system by its customers. (NRS 704.741) Section 2.59 of this bill: (1) prohibits the Commission from rejecting any portion of such a plan, or a portion of an amendment to such a plan, that includes a new renewable energy contract or the construction or acquisition of a new renewable energy facility for the purpose of complying with the utility's portfolio standard solely on the grounds of any uncertainty relating to a ballot question to require the Legislature to provide by law for an open, competitive retail electric energy market for all electricity customers in a service territory; and (2) enacts provisions governing the costs and benefits

of such new renewable energy contracts or facilities if the Legislature provides by law for an open, competitive retail electric energy market.

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

Section 1. (Deleted by amendment.)

Sec. 1.3. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[1.5]~~ 1.4 to 2.5, inclusive, of this act.

Sec. 1.4. 1. Upon the request of an electric utility, the Commission may exclude a renewable energy facility from the rate base of the electric utility and determine, without regard to cost-of-service principles, a reasonable rate for the electricity produced by the renewable energy facility. The Commission may determine a reasonable rate for such electricity by reference to:

(a) A competitive solicitation;

(b) A market index; or

(c) Other relevant pricing benchmarks or proxies.

2. In addition to the program authorized by NRS 704.738, the Commission may authorize an electric utility which owns, or has a contract to purchase electricity from, a renewable energy facility to establish a program to provide a retail customer of the electric utility the option to purchase electricity produced by the renewable energy facility if the Commission determines that:

(a) The charge for the electricity purchased pursuant to the program is reasonable;

(b) The program does not adversely affect customers of the electric utility who do not participate in the program; and

(c) The program advances the goals of this State for economic development and the development of renewable energy.

3. As used in this section:

(a) "Renewable energy" has the meaning ascribed to it in NRS 704.7811.

(b) "Renewable energy facility" has the meaning ascribed to it in NRS 704.7315.

Sec. 1.5. *"Energy storage system" means commercially available technology that is capable of retaining energy, storing the energy for a period of time and delivering the energy after storage, including, without limitation, by chemical, thermal or mechanical means.*

Sec. 1.7. *"Qualified energy storage system" means an energy storage system that is used to:*

1. Store electricity which is generated by renewable energy and which is delivered during a peak load period; or

2. Provide ancillary services for integrating electricity which is generated by renewable energy into the electricity grid. Such ancillary services include, without limitation, providing reserve electricity, reserve capacity, frequency regulation, reactive power and voltage support.

Sec. 2. *The Legislature finds and declares that it is the policy of this State to:*

1. Encourage and accelerate the development of new renewable energy projects for the economic, health and environmental benefits provided to the people of this State; ~~*[and]*~~

2. Become a leading producer and consumer of clean and renewable energy ~~*[, with a goal of achieving by 2040 an amount of renewable energy production equal to at least 80 percent of the total amount of electricity sold by providers of electric service in this State.]*~~ *; and*

3. Ensure that the benefits of the increased use of portfolio energy systems and energy efficiency measures are received by the residents of this State. Such benefits include, without limitation, improved air quality, reduced water use, a more diverse portfolio of resources for generating electricity, reduced fossil fuel consumption and more stable rates for retail customers of electricity.

Sec. 2.1. ~~*[1. The Legislature finds and declares that the requirements set forth in this section are necessary to ensure that the benefits of the increased use of renewable energy systems are received by the residents of this State. Such benefits include, without limitation, improved air quality, reduced water use, a more diverse portfolio of resources for generating electricity, reduced fossil fuel consumption and more stable rates for retail customers of electricity.*~~

~~*2. To qualify as a renewable energy system for the purposes of paragraph (b) of subsection 1 of NRS 704.7815, a facility or energy system must:*~~

~~*(a) Have its first point of interconnection with:*~~

~~*(1) A Nevada balancing authority;*~~

~~*(2) A distribution facility which serves retail customers located within an area controlled by a Nevada balancing authority; or*~~

~~*(3) An entity described in paragraph (a), (b), (c), (d) or (e) of subsection 3 of NRS 704.7808;*~~

~~*(b) Subject to the limitations set forth in subsection 3, generate electricity that is scheduled for transmission or distribution into a Nevada balancing authority without substitution of electricity from another source; or*~~

~~*(c) Generate electricity that is dynamically transferred into a Nevada balancing authority.*~~

~~*3. For the purpose of determining whether a facility or energy system qualifies as a renewable energy system pursuant to paragraph (b) of subsection 2, electricity may be substituted from another source if:*~~

~~*(a) Both:*~~

~~*(1) The substitution is limited to the amount of electricity from another source which is required to provide ancillary services necessary to maintain the scheduled transmission or distribution of electricity into the Nevada balancing authority; and*~~

~~(2) The amount of electricity substituted pursuant to paragraph (a) is not included in the amount of electricity generated by the facility or energy system; or~~

~~(b) Both:~~

~~(1) The substitution is limited to the amount of electricity from another source which is required for firming and shaping the electricity that is scheduled for transmission or distribution into the Nevada balancing authority; and~~

~~(2) The electricity which is substituted is incremental electricity.~~

~~4. As used in this section, "Nevada balancing authority" means an entity:~~

~~(a) With control over the electricity loads and electricity resources for an area which includes the majority of the territory of this State;~~

~~(b) Which maintains in real time the balance between electricity loads and electricity resources within the area the entity controls; and~~

~~(c) Is responsible for keeping the actual interchange of electricity equal to the scheduled interchange of electricity for the area the entity controls.]~~ (Deleted by amendment.)

Sec. 2.2. *1. Subject to the limitations set forth in this section and paragraph (b) of subsection 2 of NRS 704.7821, for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.0 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity delivered by or acquired from a qualified energy storage system, if the owner or operator of the qualified energy storage system demonstrates to the Commission:*

(a) For the purposes of subsection 1 of section 1.7 of this act, that the electricity:

(1) Stored in the qualified energy storage system was generated by renewable energy; and

(2) Delivered by the qualified energy storage system was delivered during a peak load period.

(b) For the purposes of subsection 2 of section 1.7 of this act, that the ancillary services provided by the qualified energy storage system were used to integrate into the grid electricity which was generated by renewable energy.

2. For the purposes of subsection 1, a provider shall not be deemed to have generated or acquired more than 2.0 kilowatt-hours of electricity from a renewable energy system per day for each 1.0 kilowatt-hour of installed capacity of the qualified energy storage system.

3. For the purposes of subsection 1, the owner or operator of the qualified energy storage system must make his or her demonstration to the Commission using the operating algorithms, rules and schedules and market participation of the qualified energy storage system, to the extent applicable.

4. For the purposes of subsection 1, if the provider has paid for or directly reimbursed, in whole or in part, the costs of the acquisition of a

qualified energy storage system by one or more of its retail customers, the electricity delivered by or acquired from the qualified energy storage system shall be deemed to be electricity delivered by or acquired from the provider.

5. For the purposes of subsection 1, the owner or operator of a qualified energy storage system is responsible for paying the cost of any metering required to measure the electricity delivery by or acquired from a qualified energy storage system.

Sec. 2.3. *For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 1.5 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a portfolio energy system that generates electricity from geothermal energy, if the system was placed into operation on or after January 1, 2018.*

Sec. 2.4. *A provider of electric service described in paragraph (a) of subsection 3 of NRS 704.7808 shall, on or before July 1 of each year, submit to the Director of the Office of Energy appointed pursuant to NRS 701.150 a report which contains the information described in subsection 4 of NRS 704.7825.*

Sec. 2.5. *Notwithstanding any provision of law to the contrary, a provider of electric service described in paragraph (a) of subsection 3 of NRS 704.7808 is not subject to the jurisdiction of the Commission.*

Sec. 2.51. NRS 704.032 is hereby amended to read as follows:

704.032 The Office of Economic Development may participate in proceedings before the Public Utilities Commission of Nevada concerning a public utility in the business of supplying electricity or natural gas to advocate the accommodation of the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053. The Office of Economic Development may intervene as a matter of right in a proceeding pursuant to NRS 704.736 to 704.754, inclusive, *and section 1.4 of this act* or 704.991.

Sec. 2.53. NRS 704.635 is hereby amended to read as follows:

704.635 When a complaint has been filed with the Commission alleging that a person is providing a service which requires a certificate of public convenience and necessity, or when the Commission has reason to believe that any provision of NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act* or 704.9901 is being violated, the Commission shall investigate the operation and may, after a hearing, issue an order requiring that the person cease and desist from any operation in violation of NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act* or 704.9901. The Commission shall enforce the order under the powers vested in the Commission by NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act* or 704.9901 or other law.

Sec. 2.55. NRS 704.640 is hereby amended to read as follows:

704.640 Except as otherwise provided in NRS 704.6881 to 704.6884, inclusive, any person who:

1. Operates any public utility to which NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act,* 704.9901 and 704.993 to 704.999, inclusive, apply without first obtaining a certificate of public convenience and necessity or in violation of its terms;

2. Fails to make any return or report required by NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act,* 704.9901 and 704.993 to 704.999, inclusive, or by the Commission pursuant to NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act,* 704.9901 and 704.993 to 704.999, inclusive;

3. Violates, or procures, aids or abets the violating of any provision of NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act,* 704.9901 and 704.993 to 704.999, inclusive;

4. Fails to obey any order, decision or regulation of the Commission;

5. Procures, aids or abets any person in the failure to obey the order, decision or regulation; or

6. Advertises, solicits, proffers bids or otherwise holds himself, herself or itself out to perform as a public utility in violation of any of the provisions of NRS 704.005 to 704.754, inclusive, *and section 1.4 of this act,* 704.9901 and 704.993 to 704.999, inclusive,

➥ shall be fined not more than $500.

Sec. 2.57. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.754, inclusive, *and section 1.4 of this act* is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

Sec. 2.59. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting or modifying the plan or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

➥ If the Commission issues an order modifying the plan, the utility may consent to or reject some or all of the modifications by filing with the Commission a notice to that effect. Any such notice must be filed not later than 30 days after the date of issuance of the order. If such a notice is filed, any petition for reconsideration or rehearing of the order must be filed with the Commission not later than 10 business days after the date the notice is filed.

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting or modifying the amendment or specifying any portions of the amendment it deems to be inadequate:

(a) Within 135 days after the filing of the amendment; or

(b) Within 180 days after the filing of the amendment for all portions of the amendment which contain an element of the emissions reduction and capacity replacement plan.

➥ If the Commission issues an order modifying the amendment, the utility may consent to or reject some or all of the modifications by filing with the Commission a notice to that effect. Any such notice must be filed not later than 30 days after the date of issuance of the order. If such a notice is filed, any petition for reconsideration or rehearing of the order must be filed with the Commission not later than 10 business days after the date the notice is filed.

3. *The Commission shall not reject any portion of a plan required pursuant to NRS 704.741, or a portion of an amendment to such a plan, that includes a new renewable energy contract or the construction or acquisition of a renewable energy facility for the purpose of complying with the provisions of NRS 704.7801 to 704.7828, inclusive, and sections 1.5 to 2.5, inclusive, of this act solely on the grounds of any uncertainty relating to a ballot question to require the Legislature to provide by law for an open, competitive retail electric energy market for all electricity customers in a service territory. If such a ballot question is approved by the voters of this State and the Legislature provides by law for such an open, competitive market in a service territory, the costs and benefits of any such renewable energy contract or renewable energy facility approved by the Commission must be transferred to a provider of electricity or the retail customers of a provider of electricity.*

4. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

~~[4.]~~ *5.* The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

~~[5.]~~ *6.* The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

~~[6.]~~ *7.* Any order issued by the Commission accepting or modifying an element of an emissions reduction and capacity replacement plan must include provisions authorizing the electric utility to construct or acquire and own electric generating plants necessary to meet the capacity amounts approved in, and carry out the provisions of, the plan. As used in this subsection, "capacity" means an amount of firm electric generating capacity used by the electric utility for the purpose of preparing a plan filed with the Commission pursuant to NRS 704.736 to 704.754, inclusive ~~[.]~~ *, and section 1.4 of this act.*

Sec. 2.6. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, *and sections 1.5 to 2.5, inclusive, of this act* unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, *and sections 1.5 and 1.7 of this act* have the meanings ascribed to them in those sections.

Sec. 2.7. NRS 704.7804 is hereby amended to read as follows:

704.7804 "Portfolio energy system or efficiency measure" means:

1. Any renewable energy system:

(a) Placed into operation before July 1, 1997, if a provider of electric service used electricity generated or acquired from the renewable energy system to satisfy its portfolio standard before July 1, 2009; or

(b) Placed into operation on or after July 1, 1997; ~~[or]~~

2. Any energy efficiency measure installed on or before December 31, 2019 ~~[.]~~ *; or*

3. Any qualified energy storage system.

Sec. 2.8. NRS 704.7808 is hereby amended to read as follows:

704.7808 1. "Provider of electric service" and "provider" mean any person or entity that is in the business of selling electricity to retail customers for consumption in this State, regardless of whether the person or entity is otherwise subject to regulation by the Commission.

2. The term includes, without limitation, a provider of new electric resources that is selling electricity to an eligible customer for consumption in this State pursuant to the provisions of chapter 704B of NRS.

3. ~~[The]~~ *Except as otherwise provided in this subsection, the* term does not include:

(a) This State or an agency or instrumentality of this State.

(b) A rural electric cooperative established pursuant to chapter 81 of NRS.

(c) A general improvement district established pursuant to chapter 318 of NRS.

(d) A utility established pursuant to chapter 709 or 710 of NRS.

(e) A cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

~~[(f)]~~

➥ *For calendar year 2018 and for each calendar year thereafter, the term includes an entity identified in this subsection during the entirety of any calendar year in which the total amount of electricity sold by the entity to its retail customers in this State during that calendar year equals or exceeds 1,000,000 megawatt-hours.*

4. The term does not include:

(a) A landlord of a manufactured home park or mobile home park or owner of a company town who is subject to any of the provisions of NRS 704.905 to 704.960, inclusive.

~~[(g)]~~ *(b)* A landlord who pays for electricity that is delivered through a master meter and who distributes or resells the electricity to one or more tenants for consumption in this State.

Sec. 2.9. ~~[NRS 704.7815 is hereby amended to read as follows:~~

~~704.7815 "Renewable energy system" means:~~

~~1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:~~

~~(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or~~

~~(b) [Transmits] *Satisfies the requirements of section 2.1 of this act and transmits* or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.~~

~~2. A solar energy system that reduces the consumption of electricity or any fossil fuel.~~

~~3. A net metering system used by a customer generator pursuant to NRS 704.766 to 704.775, inclusive.]~~ (Deleted by amendment.)

Sec. 3. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. ~~[The]~~ *Except as otherwise provided in ~~[subsection]~~ subsections 5, 6 and 8, the* portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar years 2015 through ~~[2019,]~~ *2017,* inclusive, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years ~~[2020 through 2024, inclusive,]~~ *2018 ~~[and 2019,]~~ through 2020, inclusive,* not less than ~~[22]~~ *24* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar years ~~[2020 and]~~ 2021 ~~[,]~~ through 2023, inclusive, not less than 28 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(i) For calendar years ~~[2022 and 2023,]~~ 2024 through 2026, inclusive, not less than 32 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(j) For calendar years ~~[2024 and 2025,]~~ 2027 through 2029, inclusive, not less than 36 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(k) ~~[For calendar years 2026 and 2027, not less than 40 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(l) For calendar years 2028 and 2029, not less than 46 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.~~

~~(m)]~~ For calendar year ~~[2025]~~ *2030* and for each calendar year thereafter, not less than ~~[25~~ *~~50]~~ 40* percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) ~~[Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than:~~

~~(1) For calendar years 2009 through 2015, inclusive, 5 percent of that amount must be generated or acquired from solar renewable energy systems.~~

~~(2) For calendar year 2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.~~

~~(b)]~~ Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures:

(1) During calendar years 2013 and 2014, not more than 25 percent of that amount may be based on energy efficiency measures;

(2) During each calendar year 2015 to 2019, inclusive, not more than 20 percent of that amount may be based on energy efficiency measures;

(3) During each calendar year 2020 to 2024, inclusive, not more than 10 percent of that amount may be based on energy efficiency measures; and

(4) For calendar year 2025 and each calendar year thereafter, no portion of that amount may be based on energy efficiency measures.

➥ If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures

installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

~~[(c)]~~ *(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures, for calendar year 2018 and each calendar year thereafter, not more than 10 percent of that amount may be based on qualified energy storage systems.*

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more retail customers in this State, the provider has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

5. Except as otherwise provided in *this subsection and* subsection 6, each provider shall comply with its portfolio standard during each calendar year. *For calendar year 2020 and each calendar year thereafter, a provider shall be deemed to have complied with its portfolio standard during the calendar year if the average number of portfolio energy credits earned by the provider during the calendar year and the immediately preceding 2 calendar years is equal to or greater than the average of the number of portfolio energy credits needed to comply with the provider's portfolio standards for the calendar year and the immediately preceding 2 calendar years.*

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. ~~[If the Commission determines that, for a calendar year, there is~~

~~not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the]~~ *The* Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission ~~[.]~~ *if the Commission determines that, for a calendar year:*

(a) There is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions;

(b) The provider is unable to obtain a sufficient supply of electricity to comply with the portfolio standard because the Commission has rejected a proposal included by a provider in a plan filed pursuant to NRS 704.741, or an amendment to such a plan, to acquire or save electricity pursuant to new renewable energy contracts or energy efficiency contracts or to construct or acquire a new renewable energy facility; or

(c) The provider is unable to obtain a sufficient supply of electricity to comply with the portfolio standard because of a delay in the completion of the construction of a renewable energy facility that is under the control of a person or entity other than the provider and that was intended to provide electricity.

7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. ~~[Except as otherwise provided in NRS 704.78213, the provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.]~~ *For the purposes of subsection 1, for calendar year 2018 and for each calendar year thereafter, the total amount of electricity sold by a provider:*

(a) Described in subsection 3 of NRS 704.7808 to its retail customers in this State during a calendar year does not include the first 1,000,000 megawatt-hours of electricity sold by the provider to such customers during that calendar year.

(b) To its retail customers in this State during a calendar year does not include the amount of electricity sold by the provider as part of a program of optional pricing authorized by the Commission pursuant to NRS 704.738 ~~[.]~~ *or section 1.4 of this act.*

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 4. NRS 704.78213 is hereby amended to read as follows:

704.78213 1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in the amounts described in the portfolio standard set forth in NRS 704.7821 . ~~[which is effective on the date on which the order approving the application or request is approved.]~~

2. ~~[Of]~~ *Except as otherwise provided in this subsection, of* the total amount of electricity that a provider of new electric resources is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. *Subject to the provisions of paragraphs (a) and (b), the provisions of this subsection apply to an order of the Commission approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer only if the order is issued by the Commission before July 1, 2017. If such an order was issued by the Commission:*

(a) Before July 1, 2012, the provisions of this subsection apply for all calendar years.

(b) On or after July 1, 2012, and before July 1, 2017, the provisions of this subsection apply only for calendar years before calendar year 2025.

3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which

reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. As used in this section:

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

Sec. 4.3. ~~[NRS 704.78215 is hereby amended to read as follows:~~

~~704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.~~

~~2. The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.~~

~~3. Except as otherwise provided in this subsection, for portfolio energy systems placed into operation on or after January 1, 2016, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider. The provisions of this subsection do not apply to a portfolio energy system placed into operation on or after January 1, 2016, if a provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012. For the purposes of this subsection, the amount of any electricity used by a portfolio energy system for its basic operations:~~

~~(a) Except as otherwise provided in paragraph (b), includes electricity used for the heating, lighting, air conditioning and equipment of a building located on the site of the portfolio energy system, and for operating any other equipment located on such site.~~

~~(b) [Does] *If the portfolio energy system is placed into operation on or before December 31, 2017, does* not include the electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine or used to pump or compress geothermal brine.]~~ (Deleted by amendment.)

Sec. 4.7. NRS 704.7825 is hereby amended to read as follows:

704.7825 1. Each provider of electric service shall submit to the Commission an annual report that provides information relating to the actions taken by the provider to comply with its portfolio standard.

2. Each provider shall submit the annual report to the Commission after the end of each calendar year and within the time prescribed by the

Commission. The report must be submitted in a format approved by the Commission.

3. The Commission may adopt regulations that require providers to submit to the Commission additional reports during each calendar year.

4. Each annual report and each additional report must include clear and concise information that sets forth:

(a) The amount of electricity which the provider generated, acquired or saved from portfolio energy systems or efficiency measures during the reporting period and, if applicable, the amount of portfolio energy credits that the provider acquired, sold or traded during the reporting period to comply with its portfolio standard;

(b) The capacity of each renewable energy system owned, operated or controlled by the provider, the total amount of electricity generated by each such system during the reporting period and the percentage of that total amount which was generated directly from renewable energy;

(c) Whether, during the reporting period, the provider began construction on, acquired or placed into operation any renewable energy system and, if so, the date of any such event;

(d) Whether, during the reporting period, the provider participated in the acquisition or installation of any energy efficiency measures and, if so, the date of any such event; and

(e) Any other information that the Commission by regulation may deem relevant.

5. Based on the reports submitted by providers pursuant to this section, the Commission shall compile information that sets forth whether any provider has used energy efficiency measures to comply with its portfolio standard and, if so, the type of energy efficiency measures used and the amount of energy savings attributable to each such energy efficiency measure. The Commission shall report such information to:

(a) The Legislature, not later than the first day of each regular session; and

(b) The Legislative Commission, if requested by the Chair of the Commission.

6. The provisions of this section do not apply to a provider of electric service described in paragraph (a) of subsection 3 of NRS 704.7808.

Sec. 5. Notwithstanding the provisions of any other law or any ruling or order issued by or portfolio standard established by the Public Utilities Commission of Nevada to the contrary, for any portfolio standard established by the Commission pursuant to the provisions of subsection 1 of NRS 704.78213, as that section existed before July 1, 2017, on or after July 1, 2012, and before July 1, 2017, the Commission shall, for calendar year 2018 and for each calendar year thereafter, revise the portfolio standard to require the provider of new electric resources as defined in NRS 704B.130 to generate, acquire or save electricity from portfolio energy systems or energy efficiency measures in the amounts described in the portfolio standard set forth in NRS 704.7821, as amended by section 3 of this act.

Sec. 6. (Deleted by amendment.)

Sec. 7. 1. This section and sections 1 to 2.3, inclusive, and 2.5 to 6, inclusive, of this act become effective on July 1, 2017.

2. Section 2.4 of this act becomes effective on July 1, 2020.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

This amendment adds that the PUC may authorize at the request of the electric utility an electric utility that owns or has a contract to purchase electricity from a renewable-energy facility to establish a program to provide a retail customer the option to purchase electricity produced by the renewable-energy facility; revises the legislative declaration concerning renewable energy; deletes section 2.1 of the bill which limits the facility or energy system that qualifies as a renewable-energy system, and deletes section 22.9 of Assembly Bill No. 206 which modifies the definition of renewable-energy systems pursuant to NRS 704.7815.

It further clarifies those qualified energy-storage systems to be used for compliance with the portfolio standards; prohibits the PUC from rejecting any portion of the resource plan or a portion of the amendment to such a plan that includes a renewable-energy contract or construction or acquisition of a renewable-energy facility; revises the portfolio standard for calendar year 2018 and for each calendar year thereafter to the calendar year 2030 and for each calendar year thereafter; and it deletes section 4.3 of the bill which revises provisions governing the use of geothermal energy to comply with the portfolio standards.

Amendment adopted.

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

Assembly Bill No. 348.

Bill read second time and ordered to third reading.

Assembly Bill No. 407.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Woodhouse moved that Assembly Bill No. 434 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 484.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 302.

Bill read third time.

Senator Segerblom moved that Senate Bill No. 302 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senate Bill No. 550.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 550 appropriates $17 million from the State General Fund to a newly-created disbursement account for costs incurred for a human-resource management information system in the Clark County School District. The disbursement account is to be administered by the

Legislative Counsel Bureau. The bill requires the Superintendent of the Clark County School District to prepare and transmit progress reports to the Interim Finance Committee every six months through December 31, 2020, that describe each expenditure made from the money appropriated. The bill further authorizes the Legislative Auditor, upon the request of the Legislative Commission, to conduct an audit of the use of the money appropriated. Any remaining balance of the appropriation must not be committed for expenditure by the Clark County School District after June 30, 2021, and must be reverted to the State General Fund on or before September 17, 2021.

Roll call on Senate Bill No. 550:

YEAS—21.

NAYS—None.

Senate Bill No. 550 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 29.

Bill read third time.

The following amendment was proposed by Senator Farley:

Amendment No. 1123.

SUMMARY—Revises provisions governing off-highway vehicles. (BDR 18-220)

AN ACT relating to off-highway vehicles; creating the Off-Highway Vehicles Program in the State Department of Conservation and Natural Resources; placing the Commission on Off-Highway Vehicles within the Department; revising provisions regarding the membership and duties of the Commission; reducing the late fee imposed for failure to register an off-highway vehicle; requiring the Commission to conduct an evaluation and develop certain recommendations for legislation related to the operation of an off-highway vehicle on certain highways in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Commission on Off-Highway Vehicles and authorizes the Commission to award grants of money from the Account for Off-Highway Vehicles to certain applicants for projects relating to off-highway vehicle use and off-highway trails and facilities. (NRS 490.067, 490.068, 490.069) Sections 4 and 6 of this bill place the Commission within the State Department of Conservation and Natural Resources.

Section 1 of this bill creates the Off-Highway Vehicles Program in the State Department of Conservation and Natural Resources. In administering the Program, the Director of the Department, within the limits of approved funding, is required to: (1) provide certain support and assistance to the Commission on Off-Highway Vehicles; and (2) administer the Account for Off-Highway Vehicles. Section 1 further requires the Director to include in his or her budget the money necessary, within the limits of legislative

appropriations for the Account, for: (1) certain expenses of the Program and the Commission; and (2) a reserve amount.

Under existing law, each member of the Commission on Off-Highway Vehicles is entitled to receive, if money is available for that purpose, the per diem allowance and travel expenses provided for state officers and employees generally. (NRS 490.067) Section 6 provides that, if money is available for that purpose, any member of the Commission who is not an officer or employee of the State is entitled to receive a salary of not more than $80 per day for each day of attendance at a meeting of the Commission. Section 6 further provides a procedure for replacing a member of the Commission who fails to attend at least three consecutive meetings.

Under existing law, the Commission on Off-Highway Vehicles is required to solicit nine nonvoting advisors to the Commission from various state and federal agencies. (NRS 490.068) Section 7 of this bill removes that requirement, and section 6 also: (1) revises the membership of the Commission; and (2) adds to the Commission four nonvoting, ex officio members. Section 7 also sets forth requirements for establishing a quorum of the Commission for transacting business. Finally, sections 1 and 7 revise provisions requiring a comprehensive report that must be submitted to the Legislature, providing that the report must be prepared by the Director of the State Department of Conservation and Natural Resources, then reviewed and approved by the Chair of the Commission before being submitted to each regular session of the Legislature.

Under existing law, fees paid for titling and registration of an off-highway vehicle are deposited into the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. (NRS 490.084) The Department of Motor Vehicles is required to transfer, at least once each fiscal quarter, any amount in excess of $150,000 in that Account into the Account for Off-Highway Vehicles. (NRS 490.085) The Commission on Off-Highway Vehicles is required to administer the money in the Account for Off-Highway Vehicles. (NRS 490.069) Section 8 of this bill requires the Director of the State Department of Conservation and Natural Resources to administer the Account. Section 8 also requires a portion of the money in the Account be used to maintain a reserve amount.

Under existing law, if the owner of an off-highway vehicle that is registered in this State fails to renew the registration before it expires, the registration may be reinstated upon payment of the annual renewal fee, a late fee of $25 and, if applicable, the submission of proof of insurance, which is only required for certain larger all-terrain vehicles that are authorized to operate on certain county roads. (NRS 490.082, 490.0825, 490.105) Section 9 of this bill reduces the late fee to $10.

Under existing law, with certain exceptions, a person may not operate an off-highway vehicle on a paved highway in this State unless a governmental entity has designated the highway for use by off-highway vehicles. Such a designation is prohibited on any portion of an interstate highway.

(NRS 490.090, 490.100, 490.110) Section 11.5 of this bill requires the Commission on Off-Highway Vehicles to evaluate the statutory presumption that an off-highway vehicle is prohibited from operating on a paved highway unless authorized to do so. The Commission is required to survey local governmental entities and other interested parties to solicit input. The Commission is required to submit any recommendations for proposed legislation to the Director of the Legislative Counsel Bureau for transmission to the 80th Session of the Nevada Legislature.

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Off-Highway Vehicles Program is hereby created in the Department. The Director shall administer the Program. The Commission on Off-Highway Vehicles created by NRS 490.067 shall provide direction to the Program pursuant to its authority and duties provided in NRS 490.068 and 490.069.

2. In administering the Program, the Director shall, within the limits of authorized expenditures:

(a) Administer the Account for Off-Highway Vehicles created by NRS 490.069; and

(b) Provide staff to the Commission on Off-Highway Vehicles for the purposes of:

(1) Providing assistance, support and technical advice to the Commission; and

(2) Assisting in the coordination of the activities and duties of the Commission.

3. The Director may form a technical advisory committee as needed to provide input to the Commission on Off-Highway Vehicles regarding the completeness and merit of applications received by the Commission for a grant from the Account for Off-Highway Vehicles.

4. The Director shall prepare, for each regular session of the Legislature, a comprehensive report that includes, without limitation:

(a) The general activities of the Commission on Off-Highway Vehicles;

(b) The fiscal activities of the Commission on Off-Highway Vehicles; and

(c) A summary of any grants awarded by the Commission on Off-Highway Vehicles.

➥ Upon completion of the report, the Director shall submit the report to the Chair of the Commission on Off-Highway Vehicles for review pursuant to NRS 490.068.

5. The Director shall include in his or her budget the money necessary, within the limits of legislative authorizations for the Account for Off-Highway Vehicles, for:

(a) The operating expenses of the Commission on Off-Highway Vehicles;

(b) The administrative expenses of the Program to carry out the provisions of this section; and

(c) A reserve amount as approved by the Legislature.

6. The Director may adopt regulations for the operation of the Commission on Off-Highway Vehicles and the Program.

7. As used in this section:

(a) "Administrative expenses" includes, without limitation, hiring any staff necessary to carry out the provisions of this section.

(b) "Operating expenses" includes, without limitation, any costs of contracting with a third party to provide education and information to the members of the public relating to the provisions of chapter 490 of NRS governing the lawful use and registration of off-highway vehicles.

Sec. 2. NRS 232.010 is hereby amended to read as follows:

232.010 As used in NRS 232.010 to 232.162, inclusive ~~[.]~~ *, and section 1 of this act:*

1. "Department" means the State Department of Conservation and Natural Resources.

2. "Director" means the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 232.070 is hereby amended to read as follows:

232.070 1. As executive head of the Department, the Director is responsible for the administration, through the divisions and other units of the Department, of all provisions of law relating to the functions of the Department, except functions assigned by law to the State Environmental Commission, the State Conservation Commission, the Commission for Cultural Centers and Historic Preservation *, the Commission on Off-Highway Vehicles* or the Sagebrush Ecosystem Council.

2. Except as otherwise provided in subsection 4, the Director shall:

(a) Establish departmental goals, objectives and priorities.

(b) Approve divisional goals, objectives and priorities.

(c) Approve divisional and departmental budgets, legislative proposals, contracts, agreements and applications for federal assistance.

(d) Coordinate divisional programs within the Department and coordinate departmental and divisional programs with other departments and with other levels of government.

(e) Appoint the executive head of each division within the Department.

(f) Delegate to the executive heads of the divisions such authorities and responsibilities as the Director deems necessary for the efficient conduct of the business of the Department.

(g) Establish new administrative units or programs which may be necessary for the efficient operation of the Department, and alter departmental organization and reassign responsibilities as the Director deems appropriate.

(h) From time to time adopt, amend and rescind such regulations as the Director deems necessary for the administration of the Department.

(i) Consider input from members of the public, industries and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the following:

(1) Matters relating to the establishment and maintenance of an adequate policy of forest and watershed protection;

(2) Matters relating to the park and recreational policy of the State;

(3) The use of land within this State which is under the jurisdiction of the Federal Government;

(4) The effect of state and federal agencies' programs and regulations on the users of land under the jurisdiction of the Federal Government, and on the problems of those users of land; and

(5) The preservation, protection and use of this State's natural resources.

3. Except as otherwise provided in subsection 4, the Director may enter into cooperative agreements with any federal or state agency or political subdivision of the State, any public or private institution located in or outside the State of Nevada, or any other person, in connection with studies and investigations pertaining to any activities of the Department.

4. This section does not confer upon the Director any powers or duties which are delegated by law to the State Environmental Commission, the State Conservation Commission, the Commission for Cultural Centers and Historic Preservation , *the Commission on Off-Highway Vehicles* or the Sagebrush Ecosystem Council, but the Director may foster cooperative agreements and coordinate programs and activities involving the powers and duties of the Commissions and the Council.

5. Except as otherwise provided in NRS 232.159 and 232.161, all gifts of money and other property which the Director is authorized to accept must be accounted for in the Department of Conservation and Natural Resources Gift Fund which is hereby created as a trust fund.

Sec. 4. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following:

(a) The Division of Water Resources.

(b) The Division of State Lands.

(c) The Division of Forestry.

(d) The Division of State Parks.

(e) The Division of Environmental Protection.

(f) The Office of Historic Preservation.

(g) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the Commission for Cultural Centers and Historic Preservation, *the Commission on Off-Highway Vehicles,* the Conservation Districts Program, the Nevada Natural Heritage Program, the Sagebrush Ecosystem Council and the Board to Review Claims are within the Department.

Sec. 5. NRS 490.066 is hereby amended to read as follows:

490.066 ~~[The]~~ *Except as otherwise provided in NRS 490.068 and*

section 1 of this act, the Director may adopt and enforce such administrative regulations as are necessary to carry out the provisions of this chapter.

Sec. 6. NRS 490.067 is hereby amended to read as follows:

490.067 1. The Commission on Off-Highway Vehicles is hereby created ~~[.]~~ *in the State Department of Conservation and Natural Resources.*

2. The Commission consists of *:* ~~[11 members as follows:]~~

(a) One member who is an authorized dealer, appointed by the Governor;

(b) One member who is a sportsman, appointed by the Governor from a list of persons submitted by the Director of the Department of Wildlife;

(c) One member who is a rancher, appointed by the Governor from a list of persons submitted by the Director of the State Department of Agriculture;

(d) One member who is a representative of the Nevada Association of Counties, appointed by the Governor from a list of persons submitted by the Executive Director of the Association;

(e) One member who is a representative of law enforcement, appointed by the Governor from a list of persons submitted by the Nevada Sheriffs' and Chiefs' Association;

(f) One member ~~[,]~~ *who is actively engaged in and possesses experience and expertise in advocating for issues relating to conservation,* appointed by the Governor ~~[from a list of persons submitted by the Director of the State Department of Conservation and Natural Resources, who:~~

~~(1) Possesses a degree in soil science, rangeland ecosystems science or a related field;~~

~~(2) Has at least 5 years of experience working in one of the fields described in subparagraph (1); and~~

~~(3) Is knowledgeable about the ecosystems of the Great Basin Region of central Nevada or the Mojave Desert;~~

~~(g) One member, appointed by the Governor, who is a representative of an organization that represents persons who use off-highway vehicles to access areas to participate in recreational activities that do not primarily involve off-highway vehicles; and~~

~~(h) Four]~~ *; and*

(g) Three members, appointed by the Governor, who reside in the State of Nevada and have participated in recreational activities for off-highway vehicles for at least 5 years using the type of off-highway vehicle owned or operated by the persons they will represent, as follows:

(1) One member who represents persons who own or operate all-terrain vehicles;

(2) One member who represents persons who own or operate all-terrain motorcycles ~~[;]~~ *and who is involved with or participates in the racing of off-highway motorcycles; and*

(3) One member who represents persons who own or operate snowmobiles . ~~[; and~~

~~(4) One member who represents persons who own or operate, and participate in the racing of, off-highway motorcycles.]~~

3. *The following are nonvoting, ex officio members of the Commission:*

(a) The State Director of the Nevada State Office of the Bureau of Land Management;

(b) The Forest Supervisor for the Humboldt-Toiyabe National Forest;

(c) The Director of the Department of Tourism and Cultural Affairs; and

(d) The Director of the Department of Motor Vehicles.

4. A nonvoting, ex officio member of the Commission may appoint, in writing, an alternate to serve in his or her place on the Commission.

5. The Governor shall not appoint to the Commission any member described in paragraph ~~[(h)]~~ *(g)* of subsection 2 unless the member has been recommended to the Governor by an off-highway vehicle organization. As used in this subsection, "off-highway vehicle organization" means a profit or nonprofit corporation, association or organization formed pursuant to the laws of this State and which promotes off-highway vehicle recreation or racing.

~~[4.]~~ *6.* After the initial terms, each member of the Commission *appointed pursuant to subsection 2* serves for a term of 3 years. A vacancy on the Commission must be filled in the same manner as the original appointment.

~~[5.]~~ *7.* Except as otherwise provided in this subsection, a member of the Commission *who is appointed* may not serve more than two consecutive terms on the Commission. A member who has served two consecutive terms on the Commission may be reappointed if the Governor does not receive any applications for that member's seat or if the Governor determines that no qualified applicants are available to fill that member's seat.

~~[6.]~~ *8.* The Governor shall ensure that, insofar as practicable, the members appointed to the Commission *pursuant to subsection 2* reflect the geographical diversity of this State.

~~[7.]~~ *9.* Each member of the Commission:

(a) Is entitled to receive, if money is available for that purpose , ~~[from the fees collected pursuant to NRS 490.084,]~~ the per diem allowance and travel expenses provided for state officers and employees generally.

(b) *Who is not an officer or employee of the State of Nevada is entitled to receive, if money is available for that purpose, a salary of not more than $80 per day for each day of attendance at a meeting of the Commission.*

(c) Shall swear or affirm that he or she will work to create and promote responsible off-highway vehicle recreation in the State. ~~[The Governor may remove a member from the Commission if the member violates the oath described in this paragraph.~~

~~8. The Commission may employ an Executive Secretary, who must not be a member of the Commission, to assist in its daily operations and in administering the Account for Off-Highway Vehicles created by NRS 490.069.~~

~~9. The Commission may adopt regulations for the operation of the Commission. Upon request by the Commission, the nonvoting advisers~~

~~solicited by the Commission pursuant to NRS 490.068 may provide assistance to the Commission in adopting those regulations.]~~

10. A member of the Commission who is appointed by the Governor and who fails to attend at least three consecutive meetings of the Commission is subject to replacement. The Commission shall notify the appointing authority or group who recommended the member for appointment, if any, and the appointing authority or group may recommend a person to replace that member of the Commission. The replacement of a member pursuant to this subsection must be conducted in the same manner as the original appointment.

Sec. 7. NRS 490.068 is hereby amended to read as follows:

490.068 1. The Commission shall:

(a) Elect a Chair ~~[,]~~ *and* Vice Chair ~~[, Secretary and Treasurer]~~ from among its members.

(b) Meet at the call of the Chair.

(c) Meet at least four times each year.

(d) ~~[Solicit nine nonvoting advisers to the Commission to serve for terms of 2 years as follows:~~

~~(1) One adviser from the Bureau of Land Management.~~

~~(2) One adviser from the United States Forest Service.~~

~~(3) One adviser who is:~~

~~(I) From the Natural Resources Conservation Service of the United States Department of Agriculture; or~~

~~(II) A teacher, instructor or professor at an institution of the Nevada System of Higher Education and who provides instruction in environmental science or a related field.~~

~~(4) One adviser from the State Department of Conservation and Natural Resources.~~

~~(5) One adviser from the Department of Wildlife.~~

~~(6) One adviser from the Department of Motor Vehicles.~~

~~(7) One adviser from the Commission on Tourism, other than the Chair of the Nevada Indian Commission.~~

~~(8) One adviser from the Nevada Indian Commission.~~

~~(9) One adviser from the United States Fish and Wildlife Service.]~~ *Provide direction to the Off-Highway Vehicles Program created by section 1 of this act.*

(e) Perform the duties assigned to the Commission set forth in NRS 490.083 and 490.084.

2. *A majority of the voting members of the Commission constitutes a quorum for the transaction of business, and a majority vote of those members present at any meeting is sufficient for any official action taken by the Commission.*

3. The Commission may award a grant of money from the Account for Off-Highway Vehicles created by NRS 490.069. Any such grant must

comply with the requirements set forth in NRS 490.069. The Commission shall:

(a) Adopt regulations setting forth who may apply for a grant of money from the Account for Off-Highway Vehicles and the manner in which such ~~[a person]~~ *an applicant* may submit the application to the Commission. The regulations adopted pursuant to this paragraph must include, without limitation, requirements that:

(1) Any ~~[person]~~ *applicant* requesting a grant provide proof satisfactory to the Commission that the appropriate federal, state or local governmental agency has been consulted regarding the nature of the project to be funded by the grant and regarding the area affected by the project;

(2) The application for the grant address all applicable laws and regulations, including, without limitation, those concerning:

(I) Threatened and endangered species in the area affected by the project;

(II) Ecological, cultural and archaeological sites in the area affected by the project; and

(III) Existing land use authorizations and prohibitions, land use plans, special designations and local ordinances for the area affected by the project; and

(3) Any compliance information provided by an appropriate federal, state or local governmental agency, and any information or advice provided by any agency, group or individual be submitted with the application for the grant.

(b) Adopt regulations for awarding grants from the Account ~~[.~~

~~(c) Adopt regulations for determining the]~~ *, including, without limitation, developing criteria:*

(1) That promote projects which integrate multiple grant categories;

(2) That encourage a distribution of grants among all grant categories; and

(3) For the determination of acceptable performance of work on a project for which a grant is awarded.

~~[(d) Approve the completion of, and payment of money for, work performed on a project for which a grant is awarded, if the Commission determines the work is acceptable.~~

~~(e) Monitor the accounting activities of the Account.~~

~~3. The nonvoting advisers solicited by the]~~

4. The Commission ~~[pursuant to paragraph (d) of subsection 1 shall assist the Commission in carrying out the duties set forth in this section and shall review for completeness and for compliance with the requirements of paragraph (a) of subsection 2 all]~~ *may solicit input regarding* applications for grants ~~[.~~

~~4.]~~ *from a technical advisory committee formed pursuant to section 1 of this act.*

5. For each regular session of the Legislature, the *Chair of the* Commission shall ~~[prepare a]~~ *review the* comprehensive report ~~[, including, without limitation, a summary of any grants that the Commission awarded and of the accounting activities of the Account, and any recommendations of the Commission for proposed legislation. The]~~ *prepared pursuant to section 1 of this act. Upon approval of the report by the Chair of the Commission, the* report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 8. NRS 490.069 is hereby amended to read as follows:

490.069 1. The Account for Off-Highway Vehicles is hereby created in the State General Fund as a revolving account. The ~~[Commission]~~ *Director of the State Department of Conservation and Natural Resources* shall administer 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.

2. ~~[During the period beginning on July 1, 2012, and ending on June 30, 2013, money in the Account may only be used by the Commission for the reasonable administrative costs of the Commission and to inform the public of the requirements of this chapter.~~

~~3.]~~ On or after July 1, ~~[2013,]~~ *2017,* money in the Account may only be used ~~[by the Commission]~~ as follows:

(a) ~~[Not more than 5 percent of the money that is in the Account as of January 1 of each year may be used for the reasonable]~~ *To pay for the operating expenses of the Commission, including, without limitation, any debts or obligations lawfully incurred by the Commission before July 1, 2017, and the* administrative ~~[costs]~~ *expenses* of the ~~[Account.]~~ *Off-Highway Vehicles Program created by section 1 of this act, consistent with the legislatively approved budget of the State Department of Conservation and Natural Resources pursuant to section 1 of this act.*

(b) ~~[Except as otherwise provided in subsection 4, 20 percent of any money in the Account as of January 1 of each year that is not used pursuant to paragraph (a) must be used for law enforcement, as recommended by the Office of Criminal Justice Assistance of the Department of Public Safety, or its successor, and any remaining portion of that money may be used as follows:~~

~~(1) Sixty percent of the money may be used for projects relating to:~~

~~(I)]~~ *To fund a reserve amount as provided in the legislatively approved budget of the State Department of Conservation and Natural Resources pursuant to section 1 of this act.*

(c) Any money in the Account that is not used pursuant to paragraph (a) or (b) each fiscal year may be used by the Commission to award grants as provided in NRS 490.068 for projects relating to:

(1) Studies or planning for trails and facilities for use by owners and operators of off-highway vehicles. Money received pursuant to

this ~~[sub-subparagraph]~~ *subparagraph* may be used to prepare environmental assessments and environmental impact studies that are required pursuant to 42 U.S.C. §§ 4321 et seq.

~~[(II)]~~ *(2)* The mapping and signing of those trails and facilities.

~~[(III)]~~ *(3)* The acquisition of land for those trails and facilities.

~~[(IV)]~~ *(4)* The enhancement ~~[and]~~ *or* maintenance *, or both,* of those trails and facilities.

~~[(V)]~~ *(5)* The construction of those trails and facilities.

~~[(VI)]~~ *(6)* The restoration of areas that have been damaged by the use of off-highway vehicles.

~~[(2) Fifteen percent of the money may be used for safety]~~

(7) The construction of trail features and features ancillary to a trail including, without limitation, a trailhead or a parking area near a trailhead, which minimize impacts to environmentally sensitive areas or important wildlife habitat areas.

(8) Safety training and education relating to *the use of* off-highway vehicles.

~~[4. If money is used for the projects described in paragraph (b) of subsection 3, not more than 30 percent of such money may be allocated to any one category of projects described in subparagraph (1) of that paragraph.]~~

(9) Efforts to improve compliance with and enforcement of the requirements relating to off-highway vehicles.

Sec. 9. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before July 1, 2011:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after July 1, 2011, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after July 1, 2011, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle pursuant to this section or NRS 490.0825.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) Except as otherwise provided in NRS 490.0825, the registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before July 1, 2011, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after July 1, 2011:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles and is affixed with a special plate provided to the off-highway vehicle dealer pursuant to NRS 490.0827;

(c) Is registered or certified in another state and is located in this State for not more than 15 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility;

(f) Was manufactured before January 1, 1976;

(g) Is operated solely in an organized race, festival or other event that is conducted:

(1) Under the auspices of a sanctioning body; or

(2) By permit issued by a governmental entity having jurisdiction;

(h) Except as otherwise provided in paragraph (d), is operated or stored on private land or on public land that is leased to the owner or operator of the

off-highway vehicle, including when operated in an organized race, festival or other event;

(i) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction; or

(j) Has a displacement of not more than 70 cubic centimeters.

➥ As used in this subsection, "sanctioning body" means an organization that establishes a schedule of racing events, grants rights to conduct those events and establishes and administers rules and regulations governing the persons who conduct or participate in those events.

4. The registration of an off-highway vehicle pursuant to this section or NRS 490.0825 expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee, a late fee of ~~[$25]~~ *$10* and, if applicable, proof of insurance required pursuant to NRS 490.0825. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

(a) Set forth by the Department by regulation; and

(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 10. 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. 11. 1. The terms of the members of the Commission on Off-Highway Vehicles who are appointed pursuant to paragraphs (f) and (g) and subparagraphs (2) and (4) of paragraph (h) of subsection 2 of NRS 490.067, as those provisions exist on June 30, 2017, expire on July 1, 2017.

2. On or before July 1, 2017, the Governor shall appoint to the Commission on Off-Highway Vehicles the members of the Commission on Off-Highway Vehicles specified in paragraph (f) and subparagraph (2) of paragraph (g) of subsection 2 of NRS 490.067, as amended by section 6 of this act, to initial terms of 3 years commencing on July 1, 2017.

Sec. 11.5. <u>As soon as practicable after July 1, 2017, the Commission on Off-Highway Vehicles shall:</u>

1. Evaluate whether the statutory presumption set forth in NRS 490.090 to NRS 490.130, inclusive, that the operation of an off-highway vehicle on a paved highway is prohibited unless authorized by a governmental entity should be amended.

2. Conduct a survey of local governmental entities and other interested parties to solicit input for the evaluation required pursuant to subsection 1.

3. Develop recommendations for legislation to make any such amendments as may be proposed based on the evaluation made pursuant to subsection 1.

4. On or before January 1, 2019, submit the recommendations developed pursuant to subsection 3 to the Director of the Legislative Counsel Bureau for transmission to the 80th Session of the Nevada Legislature.

Sec. 12. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2017, for all other purposes.

Senator Farley moved the adoption of the amendment.

Remarks by Senator Farley.

Amendment No. 1123 to Assembly Bill No. 29 requires the Commission on Off-Highway Vehicles to develop recommendations for legislation related to operating an off-highway vehicle on paved highways. The amendment also requires the Commission to submit those recommendation to the Director of the Legislative Counsel Bureau for transmission to the 80th Legislative Session.

Amendment adopted.

Bill read third time.

Remarks by Senator Gustavson.

Assembly Bill No. 29 places the Commission on Off-Highway Vehicles within the State Department of Conservation and Natural Resources. The bill also creates the Off-Highway Vehicles Program within the Department to provide assistance to the Commission and to administer the Account for Off-Highway Vehicles. The bill revises the membership of the Commission and provides a procedure for replacing a member who fails to attend at least three consecutive meetings. The bill requires the Director of the Department to prepare a biennial report of the general and fiscal activities of the Commission for review and approval by the chair of the Commission and submittal to the Legislature. The measure also requires the Commission to develop recommendations for legislation related to operating an off-highway vehicle on a paved highway and submit those recommendations to the Director of the Legislative Counsel Bureau for transmission to the 80th Legislative Session. Lastly, the bill reduces from $25 to $10 the late fee for reinstating the registration of a lapsed off-highway vehicle.

Roll call on Assembly Bill No. 29:

YEAS—21.

NAYS—None.

Assembly Bill No. 29 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. 448.

The following Assembly amendments were read:

Amendment No. 769.

SUMMARY—Revises provisions relating to public works. (BDR 28-603)

AN ACT relating to public works, revising provisions concerning the authorization of a private entity to undertake certain public works; authorizing a public body to enter into a public-private partnership in connection with certain eligible facilities; providing for the financing of certain eligible facilities; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership; providing for the confidentiality of certain information submitted to a public body; revising provisions concerning agreements between a public body and a person concerning certain eligible facilities; exempting property used for certain eligible facilities from all real property and ad valorem taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163, 338.164) This bill extends those provisions to also apply to certain other facilities, including certain tourism improvement projects.

This bill also provides for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for an eligible facility. Section 9 of this bill authorizes a public body to enter into such a partnership. Section 10 of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. Section 11 of this bill provides that an eligible facility may be financed in whole or in part with money from any lawful source. Section 12 of this bill authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. Section 13 of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was received. Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways. Section 14 of this bill

provides that all information submitted to a public body in connection with a request, proposal or other submission concerning an eligible facility is confidential until a notice of intent to award the contract or agreement is issued. Section 14 also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. Section 15 of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for an eligible facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) Section 21 of this bill imposes additional requirements applicable to such an agreement for an eligible facility and authorizes various other provisions that may be included in such an agreement. Section 21 also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes. Sections 17-20 and 22-25 of this bill make various conforming changes.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 338.161 and sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by a public body to a private partner.*

Sec. 4. *"Eligible facility" means:*

1. A transportation facility; and

2. A project as defined in NRS 271A.050.

Sec. 5. (Deleted by amendment.)

Sec. 6. *"Private partner" means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *"Public-private partnership" means a contract entered into by a public body and a private partner.*

Sec. 8. *"User fee" means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible facility by a public body or by a private partner pursuant to a public-private partnership.*

Sec. 9. *1. A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible facility.*

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement for an eligible facility as described in this subsection;

(b) A design-build contract;

(c) A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(d) A contract involving a construction manager at risk;

(e) A concession, including, without limitation, a toll concession and an availability payment concession;

(f) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(g) An operation and maintenance agreement for an eligible facility;

(h) Any other method or agreement for completion of the eligible facility that the public body determines will serve the public interest; or

(i) Any combination of paragraphs (a) to (h), inclusive.

Sec. 10. *1. A public body may procure a public-private partnership by means of:*

(a) Requests for project proposals in which the public body describes a class of eligible facilities or a geographic area in which private entities are invited to submit proposals to develop eligible facilities.

(b) Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.

(c) Procurements seeking from the private sector development and finance plans most suitable for the project.

(d) Best value selection procurements based on price or financial proposals, or both, or other factors.

(e) Other procedures that the public body determines may further the implementation of a public-private partnership.

2. For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:

(a) The ability of the eligible facility to promote economic growth and, in the case of a transportation facility, to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the eligible facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the eligible facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.

4. The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.

5. The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to this chapter.

6. Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without consideration, any facility or any part or parts thereof or any real or personal property or interest therein which may be useful to the public body for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the public body, with or without consideration, any existing contract for the construction of the facility.

Sec. 11. *1. An eligible facility may be financed, in whole or in part, with money from any lawful source, including, without limitation:*

(a) Any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, grant anticipation revenue bond, credit assistance from the government of this State or the Federal Government or other type of assistance that is available for the purposes of the eligible facility.

(b) Any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public body for the purposes of the eligible facility.

(c) A contribution of money or property made by any private entity or public sector partner that is a party to any agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(d) Money appropriated for the eligible facility by the State or by the public body.

(e) User fees, lease proceeds, rents, availability payments, gross or net receipts from sales, proceeds from the sale of development rights, franchise

charges, permit charges, rents, advertising and sponsorship charges, service charges or any other lawful form of consideration.

(f) Private activity bonds as described in 26 U.S.C. § 141.

(g) Any other form of public or private capital that is available for the purposes of the eligible facility.

(h) Any combination of paragraphs (a) to (g), inclusive.

2. If a public body, in accordance with applicable law, issues a note, bond or other debt obligation to finance an eligible facility that is expected to generate revenue of any kind, the revenue from the eligible facility may be pledged as security for the payment of the obligation, but the bonds or notes are special, limited obligations of the public body payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

3. Any financing issued by a public body pursuant to this section may be structured on a senior, parity or subordinate basis to any other financing.

4. A public body may issue revenue bonds or notes to provide money for any transportation facility.

Sec. 12. *1. A public body, either directly or through a designated party, may:*

(a) Accept from the United States or any of its agencies money that is available to the public body for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, whether the money is made available by grant, loan or other financing arrangement.

(b) Enter into agreements and other arrangements with the United States or any of its agencies as may be necessary, proper and convenient for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(c) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other valuable thing made to the public body for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

2. Except as otherwise provided in section 13 of this act or applicable federal law, and notwithstanding any other provision of law, money from federal, state and local sources may be combined with money from any private source for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

Sec. 13. *All money which is received and is to be retained by a public body pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of the county from which the*

money is received. The money must first be used to defray the obligations for which the public body is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.

Sec. 13.5. No user fee may be charged, because of any project undertaken as part of a public-private partnership authorized by NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, for the use of any portion of any roadway in existence on July 1, 2017.

Sec. 14. *1. Notwithstanding any other provision of law, any information obtained by or disclosed to a public body in connection with a request or proposal pursuant to NRS 338.163 or 338.164 or during the procurement or negotiation of a public-private partnership pursuant to section 10 of this act must be kept confidential until a notice of intent to award the contract, agreement or public-private partnership is issued, absent an administrative or judicial order requiring release or disclosure.*

2. Except as otherwise provided in NRS 239.0115, a public body may exempt from release to the public any trade secrets or confidential commercial, financial or proprietary information included in a request or proposal submitted to the public body pursuant to subsection 1 if the submitter:

(a) Specifies the portions of the proposal or other submission that the submitter considers to be trade secrets or confidential commercial, financial or proprietary information;

(b) Invokes exclusion upon submission of the information or other materials for which protection is sought;

(c) Identifies the data or other materials for which protection is sought with conspicuous labeling;

(d) States the reasons why protection is necessary; and

(e) Fully complies with all applicable state law with respect to information that the submitter contends should be exempt from disclosure.

Sec. 15. *This State, or any public agency so authorized under chapter 37 of NRS, may exercise the power of eminent domain to acquire property, rights-of-way or other rights in property for projects that are necessary to develop, operate or hold an eligible facility regardless of whether the property will be owned in fee simple by this State or applicable public body or whether the property will be leased according to the terms of an agreement executed pursuant to NRS 338.166.*

Sec. 16. *If no federal money is used on an eligible facility, the laws of this State govern. Notwithstanding any other provision of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, if federal money is used on an eligible facility and applicable federal laws conflict with NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.*

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 ~~[As used in NRS 338.161 to 338.168, inclusive, unless the context otherwise requires, "transportation]~~ *"Transportation* facility" means ~~[a]~~ *any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a* road, railroad, bridge, tunnel, overpass, ~~[airport,]~~ mass transit ~~[facility,]~~ *, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:*

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking ~~[facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any]~~ *facilities and* other *related equipment or* property ~~[, that is]~~ needed *or used* to ~~[operate]~~ *support* the *transportation* facility ~~[. The term does not include a toll bridge or toll road.]~~ *or the transportation of persons, information or goods; and*

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 18. NRS 338.162 is hereby amended to read as follows:

338.162 A public body may authorize a person to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ *an eligible* facility pursuant to NRS 338.163 or 338.164.

Sec. 19. NRS 338.163 is hereby amended to read as follows:

338.163 1. A person may submit a request to a public body to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ *an eligible* facility.

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the ~~[transportation]~~ *eligible* facility.

(b) A description of the ~~[transportation]~~ *eligible* facility, including, without limitation, the conceptual design of the ~~[transportation]~~ *eligible* facility . ~~[and all proposed interconnections with other transportation facilities.]~~

(c) The projected total cost of the ~~[transportation]~~ *eligible* facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the ~~[transportation]~~ *eligible* facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the ~~[transportation]~~ *eligible* facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the ~~[transportation]~~ *eligible* facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

(e) ~~[Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.~~

~~(f)]~~ A list of all permits and approvals required for the development or construction of or improvement to the ~~[transportation]~~ *eligible* facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

~~[(g) A list of the facilities of any utility or existing transportation facility that will be crossed by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.~~

~~(h)]~~ *(f)* A statement setting forth the general plans of the person submitting the request for financing and operating the ~~[transportation]~~ *eligible* facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the ~~[transportation]~~ *eligible* facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the ~~[transportation]~~ *eligible* facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the ~~[transportation]~~ *eligible* facility, including, without limitation, the fees that will be charged for the use of the ~~[transportation]~~ *eligible* facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the ~~[transportation]~~ *eligible* facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the ~~[transportation]~~ *eligible* facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

~~[(i)]~~ *(g)* The names and addresses of the persons who may be contacted for further information concerning the request.

~~[(j)]~~ *(h)* Any additional material and information that the public body may request.

3. If the eligible facility is a transportation facility, the request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 20. NRS 338.164 is hereby amended to read as follows:

338.164 If a public body receives a request regarding ~~[a transportation]~~ *an eligible* facility pursuant to NRS 338.163 and the public body determines that the ~~[transportation]~~ *eligible* facility serves a public purpose, the public body may request other persons to submit proposals to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, the ~~[transportation]~~ *eligible* facility.

Sec. 21. NRS 338.166 is hereby amended to read as follows:

338.166 1. A public body may approve a request *,* ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164 *or section 10 of this act* if the public body determines that the ~~[transportation]~~ *eligible* facility serves a public purpose. In determining whether the ~~[transportation]~~ *eligible* facility serves a public purpose, the public body shall consider whether:

(a) There is a public need for the type of ~~[transportation]~~ *eligible* facility that is proposed;

(b) ~~[The]~~ *If the eligible facility is a transportation facility, the* proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the ~~[transportation]~~ *eligible* facility is reasonable in relation to similar ~~[transportation]~~ facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the ~~[transportation]~~ *eligible* facility or its more efficient operation;

(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement to, the ~~[transportation]~~ *eligible* facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the ~~[transportation]~~ *eligible* facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.

2. In evaluating a request , ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act,* the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar ~~[transportation]~~ *eligible* facilities or the advice of outside advisors or consultants with relevant experience.

3. The public body shall ~~[request that a person who submitted a request or proposal pursuant to NRS 338.163 or 338.164]~~ furnish a copy of ~~[the]~~ *a* request , ~~[or]~~ proposal *or other submission submitted pursuant to NRS 338.163, 338.164 or section 10 of this act* to each governmental entity that has jurisdiction over an area in which any part of the ~~[transportation]~~ *eligible* facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the ~~[transportation]~~ *eligible* facility and shall indicate whether the ~~[transportation]~~ *eligible* facility is compatible with any local, regional or statewide ~~[transportation]~~ plan or program that is applicable to the governmental entity.

4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request , ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act,* including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request , ~~[or]~~ proposal *or other submission* for processing, review and evaluation.

5. The approval of a request , ~~[or]~~ proposal *or other submission* by the public body is contingent on the person who submitted the request , ~~[or]~~ proposal *or other submission* entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:

(a) Criteria that address the long-term quality of the ~~[transportation]~~ *eligible* facility.

(b) The date , *if any,* of termination of the authority and duties pursuant to NRS 338.161 to 338.168, inclusive, *and sections 2 to 16, inclusive, of this act* of the person whose request , ~~[or]~~ proposal *or other submission* was approved

by the public body with respect to the ~~[transportation]~~ *eligible* facility and for the dedication of the ~~[transportation]~~ *eligible* facility to the public body . ~~[on that date.]~~

(c) Provision ~~[for the imposition]~~ by *which* the person whose request , ~~[or]~~ proposal *or other submission* was approved by the public body ~~[of such rates, fees or other charges as may be established from time to time by agreement of the parties for use of all or a portion of a transportation facility, other than a bridge or road.]~~ *expressly agrees that the person is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.*

(d) A provision requiring all plans and specifications for any eligible facility constructed, operated or maintained pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.

(e) If the eligible facility is a transportation facility, a provision requiring all user fee revenues generated from the transportation facility to be used for right-of-way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

6. *In any agreement between a public body and a person whose request, proposal or other submission for an eligible facility pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:*

(a) Authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar charges, including provisions related to traffic management strategies, if applicable.

(b) Specify technology to be used in the eligible facility.

(c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.

(d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.

(e) Authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds ~~*[.]*~~ *for design and construction pursuant to chapter 339 of NRS, surety bonds, if required by the public body, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.*

(s) Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.

(t) Allow the public body to sell or lease naming rights with regard to any eligible facility.

7. Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.

8. In connection with the approval of ~~[a transportation]~~ *an eligible* facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the ~~[transportation]~~ *eligible* facility. The public body may extend the date from time to time.

Sec. 22. NRS 338.167 is hereby amended to read as follows:

338.167 A public body may contract with a person whose request or proposal *submitted pursuant to NRS 338.163 or 338.164* is approved

pursuant to NRS 338.166 for ~~[transportation]~~ services to be provided by the ~~[transportation]~~ *eligible* facility in exchange for such payments for service and other consideration as the public body may deem appropriate.

Sec. 23. NRS 338.168 is hereby amended to read as follows:

338.168 The public body may take any action necessary to obtain federal, state or local assistance for ~~[a transportation]~~ *an eligible* facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the ~~[transportation]~~ *eligible* facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.16995,]~~ *338.168*, inclusive, *and sections 2 to 16, inclusive, of this act,* a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds $5,000,000.

Sec. 25. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830,

293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 14 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. 26. This act becomes effective on July 1, 2017.

Amendment No. 937.

SUMMARY—Revises provisions relating to public works. (BDR 28-603)

AN ACT relating to public works; revising provisions concerning the authorization in certain counties of a private entity to undertake certain public works; authorizing a public body in certain counties to enter into a public-private partnership in connection with certain eligible facilities; providing for the financing of certain eligible facilities ~~[,]~~ in certain counties; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership ~~[,]~~ in certain counties; providing for the confidentiality of certain information submitted to a public body ~~[,]~~ in certain counties; revising provisions concerning agreements between a public body and a person concerning certain eligible facilities ~~[,]~~ in certain counties; exempting property used for certain eligible facilities in certain counties from all real property and ad valorem taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the

facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163, 338.164) ~~[This]~~ Sections 14.1, 14.2 and 14.3 of this bill ~~[extends]~~ extend those provisions to also apply to certain other facilities, including certain tourism improvement projects ~~[.]~~ in any county whose population is 700,000 or more (currently Clark County).

This bill also provides in such a county for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for an eligible facility. Section 9 of this bill authorizes a public body to enter into such a partnership. Section 10 of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. Section 11 of this bill provides that an eligible facility may be financed in whole or in part with money from any lawful source. Section 12 of this bill authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. Section 13 of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was received. Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways. Section 14 of this bill provides that all information submitted to a public body in connection with a request, proposal or other submission concerning an eligible facility is confidential until a notice of intent to award the contract or agreement is issued. Section 14 also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. Section 15 of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for an eligible facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) Section ~~[21]~~ 14.4 of this bill imposes additional requirements applicable to such an agreement for an eligible facility in a county whose population is 700,000 or more (currently Clark County) and authorizes various other provisions that may be included in such an agreement. Section ~~[21]~~ 14.4 also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes.

Sections ~~[17-20 and 22-25]~~ 14.1-14.3, 14.5, 14.6, 24 and 25 of this bill make various conforming changes.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[16,]~~ 16.5, inclusive, of this act.

Sec. 2. *As used in ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in ~~[NRS 338.161 and]~~ sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by a public body to a private partner.*

Sec. 4. *"Eligible facility" means:*

1. A transportation facility; and

2. A project as defined in NRS 271A.050.

Sec. 5. (Deleted by amendment.)

Sec. 6. *"Private partner" means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *"Public-private partnership" means a contract entered into by a public body and a private partner.*

Sec. 7.5. "Transportation facility" means any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, mass transit facility, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking facilities and other related equipment or property that is needed or used to support the transportation facility or the transportation of persons, information or goods; and

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 8. *"User fee" means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible facility by a public body or by a private partner pursuant to a public-private partnership.*

Sec. 8.5. The provisions of sections 2 to 16, inclusive, of this act apply only in a county whose population is 700,000 or more.

Sec. 9. *1. A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible facility.*

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement for an eligible facility as described in this subsection;

(b) A design-build contract;

(c) A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(d) A contract involving a construction manager at risk;

(e) A concession, including, without limitation, a toll concession and an availability payment concession;

(f) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(g) An operation and maintenance agreement for an eligible facility;

(h) Any other method or agreement for completion of the eligible facility that the public body determines will serve the public interest; or

(i) Any combination of paragraphs (a) to (h), inclusive.

Sec. 10. *1. A public body may procure a public-private partnership by means of:*

(a) Requests for project proposals in which the public body describes a class of eligible facilities or a geographic area in which private entities are invited to submit proposals to develop eligible facilities.

(b) Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.

(c) Procurements seeking from the private sector development and finance plans most suitable for the project.

(d) Best value selection procurements based on price or financial proposals, or both, or other factors.

(e) Other procedures that the public body determines may further the implementation of a public-private partnership.

2. For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:

(a) The ability of the eligible facility to promote economic growth and, in the case of a transportation facility, to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the eligible facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the eligible facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.

4. The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.

5. The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to ~~[this chapter.]~~ sections 2 to 16, inclusive, of this act.

6. Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without consideration, any facility or any part or parts thereof or any real or personal property or interest therein which may be useful to the public body for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the public body, with or without consideration, any existing contract for the construction of the facility.

Sec. 11. *1. An eligible facility may be financed, in whole or in part, with money from any lawful source, including, without limitation:*

(a) Any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, grant anticipation revenue bond, credit assistance from the government of this State or the Federal Government or other type of assistance that is available for the purposes of the eligible facility.

(b) Any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public body for the purposes of the eligible facility.

(c) A contribution of money or property made by any private entity or public sector partner that is a party to any agreement entered into pursuant to ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act.

(d) Money appropriated for the eligible facility by the State or by the public body.

(e) User fees, lease proceeds, rents, availability payments, gross or net receipts from sales, proceeds from the sale of development rights, franchise charges, permit charges, rents, advertising and sponsorship charges, service charges or any other lawful form of consideration.

(f) Private activity bonds as described in 26 U.S.C. § 141.

(g) Any other form of public or private capital that is available for the purposes of the eligible facility.

(h) Any combination of paragraphs (a) to (g), inclusive.

2. If a public body, in accordance with applicable law, issues a note, bond or other debt obligation to finance an eligible facility that is expected to generate revenue of any kind, the revenue from the eligible facility may be pledged as security for the payment of the obligation, but the bonds or notes are special, limited obligations of the public body payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

3. Any financing issued by a public body pursuant to this section may be structured on a senior, parity or subordinate basis to any other financing.

4. A public body may issue revenue bonds or notes to provide money for any transportation facility.

Sec. 12. *1. A public body, either directly or through a designated party, may:*

(a) Accept from the United States or any of its agencies money that is available to the public body for carrying out the purposes of ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act, whether the money is made available by grant, loan or other financing arrangement.

(b) Enter into agreements and other arrangements with the United States or any of its agencies as may be necessary, proper and convenient for carrying out the provisions of ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act.

(c) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other valuable thing made to the public body for carrying out the provisions of ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act.

2. Except as otherwise provided in section 13 of this act or applicable federal law, and notwithstanding any other provision of law, money from federal, state and local sources may be combined with money from any

private source for carrying out the purposes of ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act.

Sec. 13. *All money which is received and is to be retained by a public body pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of the county from which the money is received. The money must first be used to defray the obligations for which the public body is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.*

Sec. 13.5. *No user fee may be charged, because of any project undertaken as part of a public-private partnership authorized by ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act, for the use of any portion of any roadway in existence on July 1, 2017.*

Sec. 14. *1. Notwithstanding any other provision of law, any information obtained by or disclosed to a public body in connection with a request or proposal pursuant to ~~[NRS 338.163 or 338.164]~~ sections 14.2 or 14.3 of this act or during the procurement or negotiation of a public-private partnership pursuant to section 10 of this act must be kept confidential until a notice of intent to award the contract, agreement or public-private partnership is issued, absent an administrative or judicial order requiring release or disclosure.*

2. Except as otherwise provided in NRS 239.0115, a public body may exempt from release to the public any trade secrets or confidential commercial, financial or proprietary information included in a request or proposal submitted to the public body pursuant to subsection 1 if the submitter:

(a) Specifies the portions of the proposal or other submission that the submitter considers to be trade secrets or confidential commercial, financial or proprietary information;

(b) Invokes exclusion upon submission of the information or other materials for which protection is sought;

(c) Identifies the data or other materials for which protection is sought with conspicuous labeling;

(d) States the reasons why protection is necessary; and

(e) Fully complies with all applicable state law with respect to information that the submitter contends should be exempt from disclosure.

Sec. 14.1. A public body may authorize a person to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, an eligible facility pursuant to sections 14.2 or 14.3 of this act.

Sec. 14.2. 1. A person may submit a request to a public body to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, an eligible facility.

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the eligible facility.

(b) A description of the eligible facility, including, without limitation, the conceptual design of the eligible facility.

(c) The projected total cost of the eligible facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the eligible facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the eligible facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the eligible facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

(e) A list of all permits and approvals required for the development or construction of or improvement to the eligible facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

(f) A statement setting forth the general plans of the person submitting the request for financing and operating the eligible facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the eligible facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the eligible facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the eligible facility, including, without limitation, the fees that will be charged for the use of the eligible facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the eligible facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the eligible facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

(g) The names and addresses of the persons who may be contacted for further information concerning the request.

(h) Any additional material and information that the public body may request.

3. If the eligible facility is a transportation facility, the request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 14.3. If a public body receives a request regarding an eligible facility pursuant to section 14.2 of this act and the public body determines that the eligible facility serves a public purpose, the public body may request other persons to submit proposals to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, the eligible facility.

Sec. 14.4. 1. A public body may approve a request, proposal or other submission submitted pursuant to sections 10, 14.2 or 14.3 of this act if the public body determines that the eligible facility serves a public purpose. In determining whether the eligible facility serves a public purpose, the public body shall consider whether:

(a) There is a public need for the type of eligible facility that is proposed;

(b) If the eligible facility is a transportation facility, the proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the eligible facility is reasonable in relation to similar facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the eligible facility or its more efficient operation;

(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement

to, the eligible facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the eligible facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.

2. In evaluating a request, proposal or other submission submitted pursuant to sections 10, 14.2 or 14.3 of this act, the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar eligible facilities or the advice of outside advisors or consultants with relevant experience.

3. The public body shall furnish a copy of a request, proposal or other submission submitted pursuant to sections 10, 14.2 or 14.3 of this act to each governmental entity that has jurisdiction over an area in which any part of the eligible facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the eligible facility and shall indicate whether the eligible facility is compatible with any local, regional or statewide plan or program that is applicable to the governmental entity.

4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request, proposal or other submission submitted pursuant to sections 10, 14.2 or 14.3 of this act, including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request, proposal or other submission for processing, review and evaluation.

5. The approval of a request, proposal or other submission by the public body is contingent on the person who submitted the request, proposal or other submission entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:

(a) Criteria that address the long-term quality of the eligible facility.

(b) The date, if any, of termination of the authority and duties pursuant to sections 2 to 16, inclusive, of this act of the person whose request, proposal or other submission was approved by the public body with respect to the eligible facility and for the dedication of the eligible facility to the public body.

(c) Provision by which the person whose request, proposal or other submission was approved by the public body expressly agrees that the person is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the

adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.

(d) A provision requiring all plans and specifications for any eligible facility constructed, operated or maintained pursuant to sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.

(e) If the eligible facility is a transportation facility, a provision requiring all user fee revenues generated from the transportation facility to be used for right-of-way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to sections 2 to 16, inclusive, of this act.

6. In any agreement between a public body and a person whose request, proposal or other submission for an eligible facility pursuant to sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:

(a) Authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar charges, including provisions related to traffic management strategies, if applicable.

(b) Specify technology to be used in the eligible facility.

(c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.

(d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.

(e) Authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds for design and construction pursuant to chapter 339 of NRS, surety bonds, if required by the public body, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.

(s) Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.

(t) Allow the public body to sell or lease naming rights with regard to any eligible facility.

7. Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.

8. In connection with the approval of an eligible facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the eligible facility. The public body may extend the date from time to time.

Sec. 14.5. A public body may contract with a person whose request or proposal submitted pursuant to sections 14.2 or 14.3 of this act is approved pursuant to section 14.4 of this act for services to be provided by the eligible facility in exchange for such payments for service and other consideration as the public body may deem appropriate.

Sec. 14.6. The public body may take any action necessary to obtain federal, state or local assistance for an eligible facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the eligible facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.

Sec. 15. *This State, or any public agency so authorized under chapter 37 of NRS, may exercise the power of eminent domain to acquire property, rights-of-way or other rights in property for projects that are necessary to develop, operate or hold an eligible facility regardless of whether the property will be owned in fee simple by this State or applicable public body or whether the property will be leased according to the terms of an agreement executed pursuant to ~~[NRS 338.166.]~~ section 14.4 of this act.*

Sec. 16. *If no federal money is used on an eligible facility, the laws of this State govern. Notwithstanding any other provision of ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act, if federal money is used on an eligible facility and applicable federal laws conflict with ~~[NRS 338.161 to 338.168, inclusive, and]~~ sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.*

Sec. 16.5. *The provisions of this section and NRS 338.161 to 338.168, inclusive, apply to any county whose population is less than 700,000.*

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 As used in NRS 338.161 to 338.168, inclusive, *and section 16.5 of this act*, unless the context otherwise requires, "transportation ~~[~~"Transportation~~]~~ facility" means a ~~[~~any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a~~]~~ road, railroad, bridge, tunnel, overpass, airport, mass transit facility, ~~[~~, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:

~~1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems,~~]~~ parking facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any ~~[~~facilities and~~]~~ other ~~[~~related equipment or~~]~~ property that is needed ~~[~~or used~~]~~ to operate ~~[~~support~~]~~ the ~~[~~transportation~~]~~ facility . The term does not include a toll bridge or toll road. ~~[~~for the transportation of persons, information or goods; and

~~2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.~~]~~

Sec. 18. ~~[~~NRS 338.162 is hereby amended to read as follows:

~~338.162 A public body may authorize a person to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, [a transportation] *an eligible* facility pursuant to NRS 338.163 or 338.164.~~]~~ (Deleted by amendment.)

Sec. 19. ~~[~~NRS 338.163 is hereby amended to read as follows:

~~338.163 1. A person may submit a request to a public body to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop,~~

~~construct, improve, maintain or operate, or any combination thereof, [a transportation] *an eligible* facility.~~

~~2. The request must be accompanied by the following information:~~

~~(a) A topographic map indicating the location of the [transportation] *eligible* facility.~~

~~(b) A description of the [transportation] *eligible* facility, including, without limitation, the conceptual design of the [transportation] *eligible* facility . [and all proposed interconnections with other transportation facilities.]~~

~~(c) The projected total cost of the [transportation] *eligible* facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the [transportation] *eligible* facility.~~

~~(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the [transportation] *eligible* facility. The statement must include, without limitation:~~

~~(1) The names and addresses, if known, of the current owners of any property needed for the [transportation] *eligible* facility;~~

~~(2) The nature of the property interests to be acquired; and~~

~~(3) Any property that the person submitting the request proposes that the public body condemn.~~

~~(e) [Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.~~

~~(f)] A list of all permits and approvals required for the development or construction of or improvement to the [transportation] *eligible* facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.~~

~~[(g) A list of the facilities of any utility or existing transportation facility that will be crossed by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.~~

~~(h)] *(f)* A statement setting forth the general plans of the person submitting the request for financing and operating the [transportation] *eligible* facility, which must include, without limitation:~~

~~(1) A plan for the development, financing and operation of the [transportation] *eligible* facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the [transportation] *eligible* facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;~~

~~(2) A list of any assumptions made by the person about the anticipated use of the [transportation] *eligible* facility, including, without limitation, the fees that will be charged for the use of the [transportation] *eligible* facility, and a discussion of those assumptions;~~

~~(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the [transportation] *eligible* facility and the plan for addressing those risk factors;~~

~~(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the [transportation] *eligible* facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and~~

~~(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.~~

~~[(i)] *(g)* The names and addresses of the persons who may be contacted for further information concerning the request.~~

~~[(j)] *(h)* Any additional material and information that the public body may request.~~

~~*3. If the eligible facility is a transportation facility, the request must also include:*~~

~~*(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.*~~

~~*(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.]~~ (Deleted by amendment.)

Sec. 20. ~~[NRS 338.164 is hereby amended to read as follows:~~

~~338.164 If a public body receives a request regarding [a transportation] *an eligible* facility pursuant to NRS 338.163 and the public body determines that the [transportation] *eligible* facility serves a public purpose, the public body may request other persons to submit proposals to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, the [transportation] *eligible* facility.]~~ (Deleted by amendment.)

Sec. 21. ~~[NRS 338.166 is hereby amended to read as follows:~~

~~338.166 1. A public body may approve a request , [or] proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164 *or section 10 of this act* if the public body determines that the [transportation] *eligible* facility serves a public purpose. In determining whether the [transportation] *eligible* facility serves a public purpose, the public body shall consider whether:~~

~~(a) There is a public need for the type of [transportation] *eligible* facility that is proposed;~~

~~(b) [The] *If the eligible facility is a transportation facility, the* proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for~~

~~the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;~~

~~(c) The estimated cost of the [transportation] *eligible* facility is reasonable in relation to similar [transportation] facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;~~

~~(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the [transportation] *eligible* facility or its more efficient operation;~~

~~(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement to, the [transportation] *eligible* facility or failure to meet any deadline for its more efficient operation; and~~

~~(f) The long-term quality of the [transportation] *eligible* facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.~~

~~2. In evaluating a request , [or] proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act*, the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar [transportation] *eligible* facilities or the advice of outside advisors or consultants with relevant experience.~~

~~3. The public body shall [request that a person who submitted a request or proposal pursuant to NRS 338.163 or 338.164] furnish a copy of [the] *a* request , [or] proposal *or other submission submitted pursuant to NRS 338.163, 338.164 or section 10 of this act* to each governmental entity that has jurisdiction over an area in which any part of the [transportation] *eligible* facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the [transportation] *eligible* facility and shall indicate whether the [transportation] *eligible* facility is compatible with any local, regional or statewide [transportation] plan or program that is applicable to the governmental entity.~~

~~4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request , [or] proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act*, including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request , [or] proposal *or other submission* for processing, review and evaluation.~~

~~5. The approval of a request, [or] proposal *or other submission* by the public body is contingent on the person who submitted the request, [or] proposal *or other submission* entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:~~

~~(a) Criteria that address the long-term quality of the [transportation] *eligible* facility.~~

~~(b) The date, *if any*, of termination of the authority and duties pursuant to NRS 338.161 to 338.168, inclusive, *and sections 2 to 16, inclusive, of this act* of the person whose request, [or] proposal *or other submission* was approved by the public body with respect to the [transportation] *eligible* facility and for the dedication of the [transportation] *eligible* facility to the public body. [on that date.]~~

~~(c) Provision [for the imposition] by *which* the person whose request, [or] proposal *or other submission* was approved by the public body [of such rates, fees or other charges as may be established from time to time by agreement of the parties for use of all or a portion of a transportation facility, other than a bridge or road.] *expressly agrees that the person is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.*~~

~~*(d) A provision requiring all plans and specifications for any eligible facility constructed, operated or maintained pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.*~~

~~*(e) If the eligible facility is a transportation facility, a provision requiring all user fee revenues generated from the transportation facility to be used for right of way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*~~

~~*6. In any agreement between a public body and a person whose request, proposal or other submission for an eligible facility pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:*~~

~~*(a) Authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar*~~

~~*charges, including provisions related to traffic management strategies, if applicable.*~~

~~*— (b) Specify technology to be used in the eligible facility.*~~

~~*— (c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.*~~

~~*— (d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.*~~

~~*— (e) Authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.*~~

~~*— (f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.*~~

~~*— (g) Allow the public body to accept payments of monies and share revenues with the person.*~~

~~*— (h) Address how the person and public body will share management of the risks of the project.*~~

~~*— (i) Specify how the person and public body will share development costs.*~~

~~*— (j) Allocate financial responsibility for cost overruns.*~~

~~*— (k) Establish the damages to be assessed for nonperformance.*~~

~~*— (l) Establish performance criteria or incentives, or both.*~~

~~*— (m) Address the acquisition of rights of way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.*~~

~~*— (n) Establish recordkeeping, accounting and auditing standards to be used.*~~

~~*— (o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.*~~

~~*— (p) Provide for patrolling and law enforcement on public facilities.*~~

~~*— (q) Identify any specifications that must be satisfied.*~~

~~*— (r) Require the person to provide performance and payment bonds for design and construction pursuant to chapter 339 of NRS, surety bonds, if required by the public body, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.*~~

~~*— (s) Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.*~~

~~*— (t) Allow the public body to sell or lease naming rights with regard to any eligible facility.*~~

~~*— 7. Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant*~~

~~*to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.*~~

~~*8.* In connection with the approval of [a transportation] *an eligible* facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the [transportation] *eligible* facility. The public body may extend the date from time to time.]~~ (Deleted by amendment.)

Sec. 22. ~~[NRS 338.167 is hereby amended to read as follows:~~

~~338.167 A public body may contract with a person whose request or proposal *submitted pursuant to NRS 338.163 or 338.164* is approved pursuant to NRS 338.166 for [transportation] services to be provided by the [transportation] *eligible* facility in exchange for such payments for service and other consideration as the public body may deem appropriate.]~~ (Deleted by amendment.)

Sec. 23. ~~[NRS 338.168 is hereby amended to read as follows:~~

~~338.168 The public body may take any action necessary to obtain federal, state or local assistance for [a transportation] *an eligible* facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the [transportation] *eligible* facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.]~~ (Deleted by amendment.)

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.16995,]~~ *338.168*, inclusive, *and sections 2 to 16, inclusive, of this act*, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds $5,000,000.

Sec. 25. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540,

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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 14 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. 26. This act becomes effective on July 1, 2017.

Amendment No. 958.

SUMMARY—Revises provisions relating to public works. (BDR 28-603)

AN ACT relating to public works, revising provisions concerning the authorization of a private entity to undertake certain public works; authorizing a public body to enter into a public-private partnership in connection with certain eligible facilities; providing for the financing of certain eligible facilities; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership; providing for the confidentiality of certain information submitted

to a public body; revising provisions concerning agreements between a public body and a person concerning certain eligible facilities; exempting property used for certain eligible facilities from all real property and ad valorem taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163, 338.164) This bill extends those provisions to also apply to certain other facilities, including certain tourism improvement projects.

This bill also provides for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for an eligible facility. Section 9 of this bill authorizes a public body to enter into such a partnership. Section 10 of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. Section 11 of this bill provides that an eligible facility may be financed in whole or in part with money from any lawful source. Section 12 of this bill authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. Section 13 of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was received. Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways. Section 14 of this bill provides that all information submitted to a public body in connection with a request, proposal or other submission concerning an eligible facility is confidential until a notice of intent to award the contract or agreement is issued. Section 14 also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. Section 15 of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for an eligible facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) Section 21 of this bill imposes

additional requirements applicable to such an agreement for an eligible facility and authorizes various other provisions that may be included in such an agreement. Section 21 also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes. Sections 17-20 and 22-25 of this bill make various conforming changes.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 338.161 and sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by a public body to a private partner.*

Sec. 4. *"Eligible facility" means:*

1. A transportation facility; and

2. A project as defined in NRS 271A.050.

Sec. 5. (Deleted by amendment.)

Sec. 6. *"Private partner" means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *"Public-private partnership" means a contract entered into by a public body and a private partner.*

Sec. 8. *"User fee" means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible facility by a public body or by a private partner pursuant to a public-private partnership.*

Sec. 9. *1. A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible facility.*

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement for an eligible facility as described in this subsection;

(b) A design-build contract;

(c) A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(d) A contract involving a construction manager at risk;

(e) A concession, including, without limitation, a toll concession and an availability payment concession;

(f) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

(g) An operation and maintenance agreement for an eligible facility;

(h) Any other method or agreement for completion of the eligible facility that the public body determines will serve the public interest; or

(i) Any combination of paragraphs (a) to (h), inclusive.

Sec. 10. *1. A public body may procure a public-private partnership by means of:*

(a) Requests for project proposals in which the public body describes a class of eligible facilities or a geographic area in which private entities are invited to submit proposals to develop eligible facilities.

(b) Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.

(c) Procurements seeking from the private sector development and finance plans most suitable for the project.

(d) Best value selection procurements based on price or financial proposals, or both, or other factors.

(e) Other procedures that the public body determines may further the implementation of a public-private partnership.

2. For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:

(a) The ability of the eligible facility to promote economic growth and, in the case of a transportation facility, to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the eligible facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the eligible facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.

4. The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.

5. The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to this chapter.

6. Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without consideration, any facility or any part or parts thereof or any real or personal property or interest therein which may be useful to the public body for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the public body, with or without consideration, any existing contract for the construction of the facility.

Sec. 11. *1. An eligible facility may be financed, in whole or in part, with money from any lawful source, including, without limitation:*

(a) Any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, grant anticipation revenue bond, credit assistance from the government of this State or the Federal Government or other type of assistance that is available for the purposes of the eligible facility.

(b) Any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public body for the purposes of the eligible facility.

(c) A contribution of money or property made by any private entity or public sector partner that is a party to any agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(d) Money appropriated for the eligible facility by the State or by the public body.

(e) User fees, lease proceeds, rents, availability payments, gross or net receipts from sales, proceeds from the sale of development rights, franchise charges, permit charges, rents, advertising and sponsorship charges, service charges or any other lawful form of consideration.

(f) Private activity bonds as described in 26 U.S.C. § 141.

(g) Any other form of public or private capital that is available for the purposes of the eligible facility.

(h) Any combination of paragraphs (a) to (g), inclusive.

2. If a public body, in accordance with applicable law, issues a note, bond or other debt obligation to finance an eligible facility that is expected to generate revenue of any kind, the revenue from the eligible facility may be pledged as security for the payment of the obligation, but the bonds or notes are special, limited obligations of the public body payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not

create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

3. Any financing issued by a public body pursuant to this section may be structured on a senior, parity or subordinate basis to any other financing.

4. A public body may issue revenue bonds or notes to provide money for any transportation facility.

Sec. 12. *1. A public body, either directly or through a designated party, may:*

(a) Accept from the United States or any of its agencies money that is available to the public body for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, whether the money is made available by grant, loan or other financing arrangement.

(b) Enter into agreements and other arrangements with the United States or any of its agencies as may be necessary, proper and convenient for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

(c) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other valuable thing made to the public body for carrying out the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

2. Except as otherwise provided in section 13 of this act or applicable federal law, and notwithstanding any other provision of law, money from federal, state and local sources may be combined with money from any private source for carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

Sec. 13. *All money which is received and is to be retained by a public body pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of the county from which the money is received. The money must first be used to defray the obligations for which the public body is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.*

Sec. 13.5. *1. No user fee may be charged ~~[, because of any project undertaken as part of a public-private partnership authorized by NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act,]~~ for the use of any roadway or portion of any roadway ~~[in existence on July 1, 2017.]~~ constructed or improved pursuant to any project undertaken as part of a public-private partnership authorized by NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

2. The provisions of this section do not prohibit the imposition of a user fee for the use of any public transit system, regardless of whether the public transit system operates on or in the right-of-way for any such roadway.

3. As used in this section, "public transit system" has the meaning ascribed to it in NRS 277A.120.

Sec. 14. *1. Notwithstanding any other provision of law, any information obtained by or disclosed to a public body in connection with a request or proposal pursuant to NRS 338.163 or 338.164 or during the procurement or negotiation of a public-private partnership pursuant to section 10 of this act must be kept confidential until a notice of intent to award the contract, agreement or public-private partnership is issued, absent an administrative or judicial order requiring release or disclosure.*

2. Except as otherwise provided in NRS 239.0115, a public body may exempt from release to the public any trade secrets or confidential commercial, financial or proprietary information included in a request or proposal submitted to the public body pursuant to subsection 1 if the submitter:

(a) Specifies the portions of the proposal or other submission that the submitter considers to be trade secrets or confidential commercial, financial or proprietary information;

(b) Invokes exclusion upon submission of the information or other materials for which protection is sought;

(c) Identifies the data or other materials for which protection is sought with conspicuous labeling;

(d) States the reasons why protection is necessary; and

(e) Fully complies with all applicable state law with respect to information that the submitter contends should be exempt from disclosure.

Sec. 15. *This State, or any public agency so authorized under chapter 37 of NRS, may exercise the power of eminent domain to acquire property, rights-of-way or other rights in property for projects that are necessary to develop, operate or hold an eligible facility regardless of whether the property will be owned in fee simple by this State or applicable public body or whether the property will be leased according to the terms of an agreement executed pursuant to NRS 338.166.*

Sec. 16. *If no federal money is used on an eligible facility, the laws of this State govern. Notwithstanding any other provision of NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, if federal money is used on an eligible facility and applicable federal laws conflict with NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.*

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 ~~[As used in NRS 338.161 to 338.168, inclusive, unless the context otherwise requires, "transportation]~~ *"Transportation* facility" means ~~[a]~~ *any existing, enhanced, upgraded or new facility used or useful for the*

safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, ~~[airport,]~~ mass transit ~~[facility,]~~ *, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:*

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking ~~[facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any]~~ *facilities and* other *related equipment or* property ~~[that is]~~ needed *or used* to ~~[operate]~~ *support* the *transportation* facility ~~[. The term does not include a toll bridge or toll road.]~~ *or the transportation of persons, information or goods; and*

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 18. NRS 338.162 is hereby amended to read as follows:

338.162 A public body may authorize a person to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ *an eligible* facility pursuant to NRS 338.163 or 338.164.

Sec. 19. NRS 338.163 is hereby amended to read as follows:

338.163 1. A person may submit a request to a public body to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ *an eligible* facility.

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the ~~[transportation]~~ *eligible* facility.

(b) A description of the ~~[transportation]~~ *eligible* facility, including, without limitation, the conceptual design of the ~~[transportation]~~ *eligible* facility . ~~[and all proposed interconnections with other transportation facilities.]~~

(c) The projected total cost of the ~~[transportation]~~ *eligible* facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the ~~[transportation]~~ *eligible* facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the

~~[transportation]~~ *eligible* facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the ~~[transportation]~~ *eligible* facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

(e) ~~[Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.~~

~~(f)~~ A list of all permits and approvals required for the development or construction of or improvement to the ~~[transportation]~~ *eligible* facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

~~[(g) A list of the facilities of any utility or existing transportation facility that will be crossed by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.~~

~~(h)~~ *(f)* A statement setting forth the general plans of the person submitting the request for financing and operating the ~~[transportation]~~ *eligible* facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the ~~[transportation]~~ *eligible* facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the ~~[transportation]~~ *eligible* facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the ~~[transportation]~~ *eligible* facility, including, without limitation, the fees that will be charged for the use of the ~~[transportation]~~ *eligible* facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the ~~[transportation]~~ *eligible* facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the ~~[transportation]~~ *eligible* facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

~~[(i)]~~ *(g)* The names and addresses of the persons who may be contacted for further information concerning the request.

~~[(j)]~~ *(h)* Any additional material and information that the public body may request.

3. If the eligible facility is a transportation facility, the request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 20. NRS 338.164 is hereby amended to read as follows:

338.164 If a public body receives a request regarding ~~[a transportation]~~ *an eligible* facility pursuant to NRS 338.163 and the public body determines that the ~~[transportation]~~ *eligible* facility serves a public purpose, the public body may request other persons to submit proposals to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace,* develop, construct, improve, maintain or operate, or any combination thereof, the ~~[transportation]~~ *eligible* facility.

Sec. 21. NRS 338.166 is hereby amended to read as follows:

338.166 1. A public body may approve a request , ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164 *or section 10 of this act* if the public body determines that the ~~[transportation]~~ *eligible* facility serves a public purpose. In determining whether the ~~[transportation]~~ *eligible* facility serves a public purpose, the public body shall consider whether:

(a) There is a public need for the type of ~~[transportation]~~ *eligible* facility that is proposed;

(b) ~~[The]~~ *If the eligible facility is a transportation facility, the* proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the ~~[transportation]~~ *eligible* facility is reasonable in relation to similar ~~[transportation]~~ facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the ~~[transportation]~~ *eligible* facility or its more efficient operation;

(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement to, the ~~[transportation]~~ *eligible* facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the ~~[transportation]~~ *eligible* facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.

2. In evaluating a request , ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act,* the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar ~~[transportation]~~ *eligible* facilities or the advice of outside advisors or consultants with relevant experience.

3. The public body shall ~~[request that a person who submitted a request or proposal pursuant to NRS 338.163 or 338.164]~~ furnish a copy of ~~[the]~~ *a* request , ~~[or]~~ proposal *or other submission submitted pursuant to NRS 338.163, 338.164 or section 10 of this act* to each governmental entity that has jurisdiction over an area in which any part of the ~~[transportation]~~ *eligible* facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the ~~[transportation]~~ *eligible* facility and shall indicate whether the ~~[transportation]~~ *eligible* facility is compatible with any local, regional or statewide ~~[transportation]~~ plan or program that is applicable to the governmental entity.

4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request , ~~[or]~~ proposal *or other submission* submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act,* including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request , ~~[or]~~ proposal *or other submission* for processing, review and evaluation.

5. The approval of a request , ~~[or]~~ proposal *or other submission* by the public body is contingent on the person who submitted the request , ~~[or]~~ proposal *or other submission* entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:

(a) Criteria that address the long-term quality of the ~~[transportation]~~ *eligible* facility.

(b) The date , *if any,* of termination of the authority and duties pursuant to NRS 338.161 to 338.168, inclusive, *and sections 2 to 16, inclusive, of this act* of the person whose request , ~~[or]~~ proposal *or other submission* was approved by the public body with respect to the ~~[transportation]~~ *eligible* facility and for the dedication of the ~~[transportation]~~ *eligible* facility to the public body . ~~[on that date.]~~

(c) Provision ~~[for the imposition]~~ by *which* the person whose request , ~~[or]~~ proposal *or other submission* was approved by the public body ~~[of such rates, fees or other charges as may be established from time to time by agreement of the parties for use of all or a portion of a transportation facility, other than a bridge or road.]~~ *expressly agrees that the person is prohibited from seeking*

injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.

(d) A provision requiring all plans and specifications for any eligible facility constructed, operated or maintained pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.

(e) If the eligible facility is a transportation facility, a provision requiring all user fee revenues generated from the transportation facility to be used for right-of-way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.

6. *In any agreement between a public body and a person whose request, proposal or other submission for an eligible facility pursuant to NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:*

(a) ~~[Authorize]~~ Except as otherwise provided in section 13.5 of this act, authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar charges, including provisions related to traffic management strategies, if applicable.

(b) Specify technology to be used in the eligible facility.

(c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.

(d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.

(e) ~~[Authorize]~~ Except as otherwise provided in section 13.5 of this act, authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds for design and construction pursuant to chapter 339 of NRS ~~*[,]*~~ *and, if additional security is required in addition to such bonds, require the person to provide surety bonds,* ~~*[if required by the public body,]*~~ *parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.*

(s) Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.

(t) Allow the public body to sell or lease naming rights with regard to any eligible facility.

7. Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.

8. In connection with the approval of ~~[a transportation]~~ *an eligible* facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the ~~[transportation]~~ *eligible* facility. The public body may extend the date from time to time.

Sec. 22. NRS 338.167 is hereby amended to read as follows:

338.167 A public body may contract with a person whose request or proposal *submitted pursuant to NRS 338.163 or 338.164* is approved pursuant to NRS 338.166 for ~~[transportation]~~ services to be provided by the ~~[transportation]~~ *eligible* facility in exchange for such payments for service and other consideration as the public body may deem appropriate.

Sec. 23. NRS 338.168 is hereby amended to read as follows:

338.168 The public body may take any action necessary to obtain federal, state or local assistance for ~~[a transportation]~~ *an eligible* facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the ~~[transportation]~~ *eligible* facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.16995,]~~ *338.168*, inclusive, *and sections 2 to 16, inclusive, of this act,* a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds $5,000,000.

Sec. 25. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 14 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. 26. This act becomes effective on July 1, 2017.

Amendment No. 1034.

SUMMARY—Revises provisions relating to public works. (BDR 28-603)

AN ACT relating to public works; revising provisions concerning the authorization in certain counties of a private entity to undertake certain public works; authorizing a public body in certain counties to enter into a public-private partnership in connection with certain ~~[eligible]~~ transportation facilities; providing for the financing of certain ~~[eligible]~~ transportation facilities in certain counties; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership in certain counties; providing for the confidentiality of certain information submitted to a public body in certain counties; revising provisions concerning agreements between a public body and a person concerning certain ~~[eligible]~~ transportation facilities in certain counties; ~~[exempting property used for certain eligible facilities in certain counties from all real property and ad valorem taxes;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163,

338.164) ~~[Sections 14.1, 14.2 and 14.3 of this bill extend those provisions to also apply to certain other facilities, including certain tourism improvement projects in any county whose population is 700,000 or more (currently Clark County)]~~.

This bill ~~[also]~~ provides , in ~~[such a]~~ any county whose population is 700,000 or more (currently Clark County), for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for ~~[an eligible]~~ a transportation facility. Section 9 of this bill authorizes a public body to enter into such a partnership. Section 10 of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. Section 11 of this bill provides that ~~[an eligible]~~ a transportation facility may be financed in whole or in part with money from any lawful source. Section 12 of this bill authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. Section 13 of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was received. Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways. Section 14 of this bill provides that all information submitted to a public body in connection with a request, proposal or other submission concerning ~~[an eligible]~~ a transportation facility is confidential until a notice of intent to award the contract or agreement is issued. Section 14 also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. Section 15 of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for ~~[an eligible]~~ a transportation facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) Section 14.4 of this bill imposes additional requirements applicable to such an agreement for ~~[an eligible]~~ such a facility in a county whose population is 700,000 or more (currently Clark County) and authorizes various other provisions that may be included in such an agreement. ~~[Section 14.4 also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes.]~~

Sections 14.1-14.3, 14.5, 14.6, 24 and 25 of this bill make various conforming changes.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of ~~[an eligible]~~ a transportation facility by a public body to a private partner.*

Sec. 4. ~~*["Eligible facility" means:*~~

~~*1. A transportation facility; and*~~

~~*2. A project as defined in NRS 271A.050.]*~~ (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. *"Private partner" means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *"Public-private partnership" means a contract entered into by a public body and a private partner.*

Sec. 7.5. *"Transportation facility" means any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, mass transit facility, light rail, commuter rail,*
conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking facilities and other related equipment or property that is needed or used to support the transportation facility or the transportation of persons, information or goods; and

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 8. *"User fee" means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance,*

administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of ~~[an eligible]~~ a transportation facility by a public body or by a private partner pursuant to a public-private partnership.

Sec. 8.5. *The provisions of sections 2 to 16, inclusive, of this act apply only in a county whose population is 700,000 or more.*

Sec. 9. *1. A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, ~~[an eligible]~~ a transportation facility.*

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement for ~~[an eligible]~~ a transportation facility as described in this subsection;

(b) A design-build contract;

(c) A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the ~~[eligible]~~ transportation facility;

(d) A contract involving a construction manager at risk;

(e) A concession, including, without limitation, a toll concession and an availability payment concession;

(f) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the ~~[eligible]~~ transportation facility;

(g) An operation and maintenance agreement for ~~[an eligible]~~ a transportation facility;

(h) Any other method or agreement for completion of the ~~[eligible]~~ transportation facility that the public body determines will serve the public interest; or

(i) Any combination of paragraphs (a) to (h), inclusive.

Sec. 10. *1. A public body may procure a public-private partnership by means of:*

(a) Requests for project proposals in which the public body describes a class of ~~[eligible]~~ transportation facilities or a geographic area in which private entities are invited to submit proposals to develop ~~[eligible]~~ transportation facilities.

(b) Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.

(c) Procurements seeking from the private sector development and finance plans most suitable for the project.

(d) Best value selection procurements based on price or financial proposals, or both, or other factors.

(e) Other procedures that the public body determines may further the implementation of a public-private partnership.

2. For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:

(a) The ability of the ~~[eligible]~~ transportation facility to promote economic growth and ~~[, in the case of a transportation facility,]~~ to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the ~~[eligible]~~ transportation facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the ~~[eligible]~~ transportation facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.

4. The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures. ~~[or other provisions otherwise applicable to public works, services or utilities.]~~

5. The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to sections 2 to 16, inclusive, of this act.

6. Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without consideration, any facility or any part or parts thereof or any real or personal property or interest therein which may be useful to the public body for any authorized purpose. In any case where the construction of a facility has not been completed, the public agency concerned may also transfer, sell, assign, and set over to the public body, with or without consideration, any existing contract for the construction of the facility.

Sec. 11. *1. ~~[An eligible]~~ A transportation facility may be financed, in whole or in part, with money from any lawful source, including, without limitation:*

(a) Any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, grant

anticipation revenue bond, credit assistance from the government of this State or the Federal Government or other type of assistance that is available for the purposes of the ~~[eligible]~~ transportation facility.

(b) Any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the public body for the purposes of the ~~[eligible]~~ transportation facility.

(c) A contribution of money or property made by any private entity or public sector partner that is a party to any agreement entered into pursuant to sections 2 to 16, inclusive, of this act.

(d) Money appropriated for the ~~[eligible]~~ transportation facility by the State or by the public body.

(e) User fees, lease proceeds, rents, availability payments, gross or net receipts from sales, proceeds from the sale of development rights, franchise charges, permit charges, rents, advertising and sponsorship charges, service charges or any other lawful form of consideration.

(f) Private activity bonds as described in 26 U.S.C. § 141.

(g) Any other form of public or private capital that is available for the purposes of the ~~[eligible]~~ transportation facility.

(h) Any combination of paragraphs (a) to (g), inclusive.

2. If a public body, in accordance with applicable law, issues a note, bond or other debt obligation to finance ~~[an eligible]~~ a transportation facility that is expected to generate revenue of any kind, the revenue from the ~~[eligible]~~ transportation facility may be pledged as security for the payment of the obligation, but the bonds or notes are special, limited obligations of the public body payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

3. Any financing issued by a public body pursuant to this section may be structured on a senior, parity or subordinate basis to any other financing.

4. A public body may issue revenue bonds or notes to provide money for any transportation facility.

Sec. 12. *1. A public body, either directly or through a designated party, may:*

(a) Accept from the United States or any of its agencies money that is available to the public body for carrying out the purposes of sections 2 to 16, inclusive, of this act, whether the money is made available by grant, loan or other financing arrangement.

(b) Enter into agreements and other arrangements with the United States or any of its agencies as may be necessary, proper and convenient for carrying out the provisions of sections 2 to 16, inclusive, of this act.

(c) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other valuable thing made to the public body for carrying out the provisions of sections 2 to 16, inclusive, of this act.

2. Except as otherwise provided in section 13 of this act or applicable federal law, and notwithstanding any other provision of law, money from federal, state and local sources may be combined with money from any private source for carrying out the purposes of sections 2 to 16, inclusive, of this act.

Sec. 13. *All money which is received and is to be retained by a public body pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of the county from which the money is received. The money must first be used to defray the obligations for which the public body is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the ~~[eligible]~~ transportation facility from which the money is derived.*

Sec. 13.5. *1. No user fee may be charged for the use of any roadway or portion of any roadway constructed or improved pursuant to any project undertaken as part of a public-private partnership authorized by NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

2. The provisions of this section do not prohibit the imposition of a user fee for the use of any public transit system, regardless of whether the public transit system operates on or in the right-of-way for any such roadway.

3. As used in this section, "public transit system" has the meaning ascribed to it in NRS 277A.120.

Sec. 14. *1. Notwithstanding any other provision of law, any information obtained by or disclosed to a public body in connection with a request or proposal pursuant to section 14.2 or 14.3 of this act or during the procurement or negotiation of a public-private partnership pursuant to section 10 of this act must be kept confidential until a notice of intent to award the contract, agreement or public-private partnership is issued, absent an administrative or judicial order requiring release or disclosure.*

2. Except as otherwise provided in NRS 239.0115, a public body may exempt from release to the public any trade secrets or confidential commercial, financial or proprietary information included in a request or proposal submitted to the public body pursuant to subsection 1 if the submitter:

(a) Specifies the portions of the proposal or other submission that the submitter considers to be trade secrets or confidential commercial, financial or proprietary information;

(b) Invokes exclusion upon submission of the information or other materials for which protection is sought;

(c) Identifies the data or other materials for which protection is sought with conspicuous labeling;

(d) States the reasons why protection is necessary; and

(e) Fully complies with all applicable state law with respect to information that the submitter contends should be exempt from disclosure.

Sec. 14.1. *A public body may authorize a person to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, ~~[an eligible]~~ a transportation facility pursuant to section 14.2 or 14.3 of this act.*

Sec. 14.2. *1. A person may submit a request to a public body to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, ~~[an eligible]~~ a transportation facility.*

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the ~~[eligible]~~ transportation facility.

(b) A description of the ~~[eligible]~~ transportation facility, including, without limitation, the conceptual design of the ~~[eligible]~~ transportation facility.

(c) The projected total cost of the ~~[eligible]~~ transportation facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the ~~[eligible]~~ transportation facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the ~~[eligible]~~ transportation facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the ~~[eligible]~~ transportation facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

(e) A list of all permits and approvals required for the development or construction of or improvement to the ~~[eligible]~~ transportation facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

(f) A statement setting forth the general plans of the person submitting the request for financing and operating the ~~[eligible]~~ transportation facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the ~~[eligible]~~ transportation facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the ~~[eligible]~~ transportation facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the ~~[eligible]~~ transportation facility, including, without limitation, the

fees that will be charged for the use of the ~~[eligible]~~ transportation facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the ~~[eligible]~~ transportation facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the ~~[eligible]~~ transportation facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed transportation facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

(g) The names and addresses of the persons who may be contacted for further information concerning the request.

(h) Any additional material and information that the public body may request.

3. ~~[If the eligible facility is a transportation facility, the]~~ The request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 14.3. *If a public body receives a request regarding ~~[an eligible]~~ a transportation facility pursuant to section 14.2 of this act and the public body determines that the ~~[eligible]~~ transportation facility serves a public purpose, the public body may request other persons to submit proposals to design, finance, lease, repair, acquire, extend, expand, plan, equip, replace, develop, construct, improve, maintain or operate, or any combination thereof, the ~~[eligible]~~ transportation facility.*

Sec. 14.4. *1. A public body may approve a request, proposal or other submission submitted pursuant to section 10, 14.2 or 14.3 of this act if the public body determines that the ~~[eligible]~~ transportation facility serves a public purpose. In determining whether the ~~[eligible]~~ transportation facility serves a public purpose, the public body shall consider whether:*

(a) There is a public need for the type of ~~[eligible]~~ transportation facility that is proposed;

(b) ~~[If the eligible facility is a transportation facility, the]~~ The proposed interconnections between the transportation facility and existing transportation facilities and the plans of the person submitting the request for the operation of the transportation facility are reasonable and compatible with any statewide or regional program for the improvement of transportation and with the transportation plans of any other governmental

entity in the jurisdiction of which any portion of the transportation facility will be located;

(c) The estimated cost of the ~~[eligible]~~ transportation facility is reasonable in relation to similar facilities, as determined by an analysis of the cost performed by a professional engineer who is licensed pursuant to chapter 625 of NRS;

(d) The plans of the person submitting the request will result in the timely development or construction of, or improvement to, the ~~[eligible]~~ transportation facility or its more efficient operation;

(e) The plans of the person submitting the request contain any penalties for the failure of the person submitting the request to meet any deadline which results in the untimely development or construction of, or improvement to, the ~~[eligible]~~ transportation facility or failure to meet any deadline for its more efficient operation; and

(f) The long-term quality of the ~~[eligible]~~ transportation facility will meet a level of performance established by the public body over a sufficient duration of time to provide value to the public.

2. In evaluating a request, proposal or other submission submitted pursuant to section 10, 14.2 or 14.3 of this act, the public body may consider internal staff reports prepared by personnel of the public body who are familiar with the operation of similar ~~[eligible]~~ transportation facilities or the advice of outside advisors or consultants with relevant experience.

3. The public body shall furnish a copy of a request, proposal or other submission submitted pursuant to section 10, 14.2 or 14.3 of this act to each governmental entity that has jurisdiction over an area in which any part of the ~~[eligible]~~ transportation facility is located. Within 30 days after receipt of such a request or proposal, the governmental entity shall submit in writing to the public body, for consideration by the public body, any comments that the governmental entity has concerning the ~~[eligible]~~ transportation facility and shall indicate whether the ~~[eligible]~~ transportation facility is compatible with any local, regional or statewide plan or program that is applicable to the governmental entity.

4. A public body shall charge a reasonable fee to cover the costs of processing, reviewing and evaluating a request, proposal or other submission submitted pursuant to section 10, 14.2 or 14.3 of this act, including, without limitation, reasonable fees for the services of an attorney or a financial or other consultant or advisor, to be collected before the public body accepts the request, proposal or other submission for processing, review and evaluation.

5. The approval of a request, proposal or other submission by the public body is contingent on the person who submitted the request, proposal or other submission entering into an agreement with the public body. In such an agreement, the public body shall include, without limitation:

(a) Criteria that address the long-term quality of the ~~[eligible]~~ transportation facility.

(b) The date, if any, of termination of the authority and duties pursuant to sections 2 to 16, inclusive, of this act of the person whose request, proposal or other submission was approved by the public body with respect to the ~~[eligible]~~ transportation facility and for the dedication of the ~~[eligible]~~ transportation facility to the public body.

(c) Provision by which the person whose request, proposal or other submission was approved by the public body expressly agrees that the person is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the public body or any other jurisdiction from developing, constructing or maintaining any facility that was planned and that would or might impact the revenue that the person would or might derive from the facility developed under the agreement, except that the agreement may provide for reasonable compensation to the person for the adverse effect on user fee revenues resulting from the development, construction and maintenance of an unplanned revenue impacting facility.

(d) A provision requiring all plans and specifications for any ~~[eligible]~~ transportation facility constructed, operated or maintained pursuant to sections 2 to 16, inclusive, of this act to comply with state standards and any applicable federal standards.

(e) ~~[If the eligible facility is a transportation facility, a]~~ A provision requiring all user fee revenues generated from the transportation facility to be used for right-of-way acquisition, planning, design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the same county in which the user fee revenues are generated, except to the extent such user fee revenues are otherwise pledged or allocated pursuant to the financial terms of an agreement entered into pursuant to sections 2 to 16, inclusive, of this act.

6. In any agreement between a public body and a person whose request, proposal or other submission for ~~[an eligible]~~ a transportation facility pursuant to sections 2 to 16, inclusive, of this act, was approved by the public body, the public body may also include provisions that:

(a) Except as otherwise provided in section 13.5 of this act, authorize the public body or the person to establish and collect user fees, rents, advertising and sponsorship charges, service charges or similar charges, including provisions related to traffic management strategies, if applicable.

(b) Specify technology to be used in the ~~[eligible]~~ transportation facility.

(c) Establish circumstances under which the public body may receive all or a share of revenues from such charges.

(d) Govern enforcement of tolls, if applicable, including provisions for use of cameras or other mechanisms to ensure that users have paid tolls that are due and provisions that allow the person access to relevant databases for enforcement purposes.

(e) Except as otherwise provided in section 13.5 of this act, authorize the public body to continue or cease collection of user charges, tolls, fares or similar charges after the end of the term of the agreement.

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For ~~[an eligible]~~ a transportation facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the ~~[eligible]~~ transportation facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds for design and construction pursuant to chapter 339 of NRS and, if additional security is required in addition to such bonds, require the person to provide surety bonds, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.

(s) Allow the public body to acquire real property that is needed for and related to the ~~[eligible]~~ transportation facility, including acquisition by exchange for other real property that is owned by the public body.

(t) Allow the public body to sell or lease naming rights with regard to any ~~[eligible]~~ transportation facility.

7. ~~[Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.~~

~~8.]~~ In connection with the approval of ~~[an eligible]~~ a transportation facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the ~~[eligible]~~ transportation facility. The public body may extend the date from time to time.

Sec. 14.5. *A public body may contract with a person whose request or proposal submitted pursuant to section 14.2 or 14.3 of this act is approved pursuant to section 14.4 of this act for services to be provided by the ~~[eligible]~~ transportation facility in exchange for such payments for service and other consideration as the public body may deem appropriate.*

Sec. 14.6. *The public body may take any action necessary to obtain federal, state or local assistance for ~~[an eligible]~~ a transportation facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the ~~[eligible]~~ transportation facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.*

Sec. 15. *This State, or any public agency so authorized under chapter 37 of NRS, may exercise the power of eminent domain to acquire property, rights-of-way or other rights in property for projects that are necessary to develop, operate or hold ~~[an eligible]~~ a transportation facility regardless of whether the property will be owned in fee simple by this State or applicable public body or whether the property will be leased according to the terms of an agreement executed pursuant to section 14.4 of this act.*

Sec. 16. *If no federal money is used on ~~[an eligible]~~ a transportation facility, the laws of this State govern. Notwithstanding any other provision of sections 2 to 16, inclusive, of this act, if federal money is used on ~~[an eligible]~~ a transportation facility and applicable federal laws conflict with sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.*

Sec. 16.5. *The provisions of this section and NRS 338.161 to 338.168, inclusive, apply to any county whose population is less than 700,000.*

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 As used in NRS 338.161 to 338.168, inclusive, *and section 16.5 of this act,* unless the context otherwise requires, "transportation facility" means a road, railroad, bridge, tunnel, overpass, airport, mass transit facility, parking facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any other property that is needed to operate the facility. The term does not include a toll bridge or toll road.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.16995,]~~ *338.168,* inclusive, *and sections 2 to 16, inclusive, of this act,* a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body

has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds $5,000,000.

Sec. 25. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 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, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 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, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 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.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 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.410, 681B.540, 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.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 14 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. 26. This act becomes effective on July 1, 2017.

Senator Farley moved that the Senate concur in Assembly Amendments Nos. 769, 937, 958, 1034 to Senate Bill No. 448.

Remarks by Senator Farley.

Amendment No. 769 prohibits the charging of tolls or other fees as a result of any project undertaken as a part of a public-private partnership authorized by this bill. For the use of any roadway in existence on the effective date of this act, it requires performance and payment bonds for design and construction that are a part of the public-private partnership agreements and authorizes surety bonds in addition to security if desired.

Amendment No. 937 provides that the provisions concerning tourism- improvement projects only apply to the Regional Transportation Commission in a county having a population of 700,000 or more, currently only Clark County.

Amendment No. 958 clarifies that the imposition of a user fee for the use of any public transit system is not prohibited, and requires that security, if required by a public body and provided by certain performance and payment bonds and if additional security is required, security bonds might be required.

Amendment No. 1034 removes the exemption of such a facility from certain taxes and clarifies the provisions in the bill applying to transportation facilities.

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. 49, 377, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 49.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1118.

SUMMARY—Revises provisions relating to funding for pupils with disabilities. ~~[in public schools.]~~ (BDR 34-405)

AN ACT relating to education; ~~[removing the limitation on the number of pupils with disabilities for which additional money is provided to public schools through the basic support guarantee per pupil;]~~ requiring an additional apportionment of money from the State Distributive School Account in the State General Fund to certain school districts and charter schools for pupils with disabilities; revising provisions governing the reimbursement of certain hospitals and other facilities for educational

services provided to certain children; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a basic support guarantee to be provided for each pupil who attends public school in this State. The money is paid from the State Distributive School Account in the State General Fund. The amount of the basic support guarantee is established for each school district for each school year according to a formula. Existing law further provides for a statewide multiplier to be applied for pupils with disabilities so that additional funding is provided for such pupils from the ~~[State Distributive School]~~ Account. However, that additional funding is limited to not more than 13 percent of the total pupil enrollment in the school district or charter school, except in limited circumstances. (NRS 387.122) ~~[This bill removes the limitation on the number of pupils to whom the multiplier may apply. This bill also requires the additional funding to: (1) be equal or greater than the amount received during Fiscal Year 2017-2018; and (2) satisfy federal requirements for maintenance of effort. In addition, this bill requires the Department of Education to: (1) establish standards for determining whether a pupil has a disability for which the multiplier applies; and (2) conduct such audits as it deems necessary to ensure that the school districts and the State Public Charter School Authority accurately identify pupils to whom the multiplier applies.]~~ If a school district or charter school has reported an enrollment of pupils with disabilities exceeding 13 percent of total pupil enrollment, section 1 of this bill generally requires that an additional apportionment be made from the Account to the school district or charter school, for each such pupil in an amount equal to one-half of the statewide multiplier then in effect for pupils with disabilities.

Under existing law, certain hospitals and other facilities that provide residential treatment to children and also operate a licensed private school are authorized to request reimbursement from the Department of Education for the cost of providing educational services to a child who is verified to be a patient of the hospital or facility and attends the private school for more than 7 school days. Upon receiving such a request, the Department is required to determine the amount of reimbursement as a percentage of the basic support guarantee per pupil and withhold that amount from the school district or charter school where the child would attend school if the child were not in the hospital or facility. (NRS 387.1225) If such a child is a pupil with a disability, section 1.2 of this bill provides that the hospital or facility is also entitled to a corresponding percentage of the statewide multiplier included in the basic support guarantee per pupil and any other money that would otherwise be apportioned for the child to the school district or charter school.

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

Section 1. NRS 387.122 is hereby amended to read as follows:

387.122 1. For making the apportionments of the State Distributive School Account in the State General Fund required by the provisions of this title, the basic support guarantee per pupil for each school district is established by law for each school year. The formula for calculating the basic support guarantee may be expressed as an estimated weighted average per pupil, based on the total expenditures for public education in the immediately preceding even-numbered fiscal year, plus any legislative appropriations for the immediately succeeding biennium, minus those local funds not guaranteed by the State pursuant to NRS 387.163.

2. The estimated weighted average per pupil for the State must be calculated as a basic support guarantee for each school district through an equity allocation model that incorporates:

(a) Factors relating to wealth in the school district;

(b) Salary costs;

(c) Transportation; and

(d) Any other factor determined by the Superintendent of Public Instruction after consultation with the school districts and the State Public Charter School Authority.

3. The basic support guarantee per pupil must include a *statewide* multiplier for pupils with disabilities. Except as otherwise provided in this ~~[subsection,]~~ *section*, the funding provided to each school district and charter school through the multiplier for pupils with disabilities is limited to the actual number of pupils with disabilities enrolled in the school district or charter school ~~*[.]*~~ , not to exceed 13 percent of total pupil enrollment for the school district or charter school. ~~[If]~~

4. Except as otherwise provided in this subsection, if a school district or charter school has reported an enrollment of pupils with disabilities equal to more than 13 percent of total pupil enrollment, ~~*[If the funding which would otherwise be provided to a school district or charter school pursuant to this subsection would be less than the amount received as the basic support guarantee by the school district or charter school for Fiscal Year 2017-2018 or would fail to satisfy the requirements for maintenance of effort under federal law,]*~~ the school district or charter school must receive *, for each such additional pupil,* an amount of money ~~[necessary :~~

~~*(a) Which equals the amount of money received as the basic support guarantee by the school district or charter school for Fiscal Year 2017-2018; or*~~

~~*(b) Which is necessary* to satisfy the requirements for maintenance of effort under federal law.*law,*~~

~~*" as applicable.*~~

~~4.]~~ *equal to one-half of the statewide multiplier then in effect for pupils with disabilities. An apportionment made to a school district or charter school pursuant to this subsection is subject to change from year to year in accordance with the number of pupils with disabilities enrolled in the school district or charter school. If the money available for apportionment pursuant*

to this subsection is insufficient to make the apportionment otherwise required by this subsection, the Superintendent of Public Instruction shall proportionately reduce the amount so apportioned to each school district and charter school. The Department shall account separately for any money apportioned pursuant to this subsection.

5. Not later than July 1 of each even-numbered year, the Superintendent of Public Instruction shall review and, if necessary, revise the factors used for the equity allocation model adopted for the previous biennium and present the review and any revisions at a meeting of the Legislative Committee on Education for consideration and recommendations by the Committee. After the meeting, the Superintendent of Public Instruction shall consider any recommendations of the Legislative Committee on Education, determine whether to include those recommendations in the equity allocation model and adopt the model. The Superintendent of Public Instruction shall submit the equity allocation model to the:

(a) Governor for inclusion in the proposed executive budget.

(b) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

~~[5.]~~ *6.* The Department shall make available updated information regarding the equity allocation model on the Internet website maintained by the Department.

~~*[6. The Department shall:*~~

~~*(a) Establish, after consultation with the school districts and the State Public Charter School Authority, standards for determining whether a pupil has a disability for which the multiplier described in subsection 3 applies; and*~~

~~*(b) Conduct such audits as the Department deems necessary to ensure that each school district and the State Public Charter School Authority has a process in place that accurately determines whether a pupil has a disability for which the multiplier described in subsection 3 applies.]*~~

Sec. 1.2. NRS 387.1225 is hereby amended to read as follows:

387.1225 1. A hospital or other facility which is licensed by the Division of Public and Behavioral Health of the Department of Health and Human Services that provides residential treatment to children and which operates a private school licensed pursuant to chapter 394 of NRS may request reimbursement from the Department for the cost of providing educational services to a child who:

(a) The Department verifies is a patient or resident of the hospital or facility; and

(b) Attends the private school for more than 7 school days.

2. Upon receiving a request for reimbursement, the Department shall determine the amount of reimbursement to which the hospital or facility is entitled as a percentage of the basic support guarantee per pupil and withhold that amount from the ~~[county]~~ school district or charter school where the child would attend school if the child were not placed in the hospital or

facility. *If the child is a pupil with a disability, the hospital or facility is also entitled to a corresponding percentage of the statewide multiplier included in the basic support guarantee per pupil pursuant to NRS 387.122 and any other money that would otherwise be apportioned for the child to the school district or charter school.* The Department shall distribute the money withheld from the ~~[county]~~ school district or charter school to the hospital or facility.

3. *For the purposes of subsection 2, the amount of reimbursement to which the hospital or facility is entitled must be calculated on the basis of the number of school days the child is a patient or resident of the hospital or facility and attends the private school, including the 7 school days prescribed in paragraph (b) of subsection 1, in proportion to the number of days of instruction scheduled for that school year by the board of trustees of the school district or the charter school, as applicable.*

4. The Department shall adopt any regulations necessary to carry out the provisions of this section.

~~[4.]~~ *5.* As used in this section:

(a) "Hospital" has the meaning ascribed to it in NRS 449.012.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 1.5. NRS 388.429 is hereby amended to read as follows:

388.429 1. The Legislature declares that funding provided for each school year establishes financial resources sufficient to ensure a reasonably equal educational opportunity to pupils with disabilities residing in Nevada through the use of the *statewide* multiplier to the basic support guarantee prescribed by NRS 387.122.

2. Subject to the provisions of NRS 388.417 to 388.469, inclusive, the board of trustees of each school district shall make such special provisions as may be necessary for the education of pupils with disabilities.

3. The board of trustees of a school district in a county whose population is less than 700,000 may provide early intervening services. Such services must be provided in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto.

4. The board of trustees of a school district shall establish uniform criteria governing eligibility for instruction under the special education programs provided for by NRS 388.417 to 388.469, inclusive. The criteria must prohibit the placement of a pupil in a program for pupils with disabilities solely because the pupil is a disciplinary problem in school. The criteria are subject to such standards as may be prescribed by the State Board.

Sec. 2. This act becomes effective on July 1, 2017.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

This amendment allows school districts and charter schools with enrollment of pupils with disabilities that exceed 13 percent of the total pupil enrollment to receive one-half of the additional funding that is provided by the State for students with disabilities for those students

that exceed the 13 percent threshold. It also allows hospitals or other facilities that provide residential treatment to children and operate as a private school to receive a share of the school districts' funding provided by the State for students with disabilities when serving such pupils and eliminates the amendments that were incorporated in the first reprint of Senate Bill No. 49, while retaining the 13 percent full funding limit for students with disabilities.

Amendment adopted.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 49 allows school districts and charter schools with enrollment of pupils with disabilities that exceed 13 percent of the total pupil enrollment to receive one-half of the additional funding that is provided by the State for students with disabilities for those students that exceed the 13 percent threshold. The bill would also allow hospitals or other facilities that provide residential treatment to children and operate as a private school to receive a share of the school districts' funding provided by the State for students with disabilities when serving such pupils.

Roll call on Senate Bill No. 49:

YEAS—21.

NAYS—None.

Senate Bill No. 49 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 377.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1119.

SUMMARY—Revises provisions relating to ~~[public defenders.]~~ indigent defense. (BDR 14-1005)

AN ACT relating to ~~[public defenders;]~~ indigent defense; creating the Nevada Right to Counsel Commission; prescribing the membership and duties ~~[and powers]~~ of the Commission; ~~[authorizing the Commission to establish certain standards governing public defenders; renaming the Office of State Public Defender as the Office of Indigent Legal Services and removing the Office from the Department of Health and Human Services; authorizing certain counties to transfer responsibility for the provision of all or certain indigent defense services in the county to the Office; authorizing certain counties to withdraw such a transfer of services; requiring the Office to engage independent expertise to conduct periodic evaluations of indigent defense services provided by certain counties and the Office; requiring counties subject to such evaluations to transfer responsibility for the provision of indigent defense services to the Office in certain circumstances; requiring counties that transfer responsibility for the provision of indigent defense services to the Office to pay a certain amount annually to the Commission; revising provisions relating to the county offices of public defender;]~~ authorizing the Commission to request the drafting of not more

than one legislative measure for each regular session of the Legislature; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires a district judge, justice of the peace, municipal judge or master to appoint an attorney for an indigent person who is charged with certain crimes. (NRS 171.188) Existing law also provides that if the parent or guardian of a child who is alleged to be delinquent or in need of supervision is indigent, the juvenile court must appoint an attorney for the child. (NRS 62D.030) Under existing law, a county whose population is 100,000 or more (currently Clark and Washoe Counties) must create an office of public defender to provide these defense services to indigent persons, and any county whose population is less than 100,000 may, but is not required to, create such an office. (NRS 260.010) The State Public Defender provides indigent defense services in counties that have not created an office of public defender. (NRS 180.060) Finally, a magistrate, master or district court may appoint a person other than a public defender to provide legal representation to an indigent person only if the magistrate, master or district makes a finding that the public defender is disqualified from furnishing the representation. (NRS 7.115)]~~

This bill creates the Nevada Right to Counsel Commission and prescribes the duties and functions of the Commission. Section 9 of this bill provides that the Commission consists of 13 voting members and the Chief Justice of the Nevada Supreme Court, who is an ex officio nonvoting member of the Commission. Under section 9, of the 13 voting members of the Commission, the Governor appoints 10 members from among nominees selected by various entities interested in the provision of indigent defense services and the Majority Leader of the Senate, the Speaker of the Assembly and the Chief Justice of the Nevada Supreme Court each appoint one member. Section 9 also provides that a member of the Commission serves without compensation but is entitled to receive the per diem and travel expenses for state officers and employees while the member is engaged in the business of the Commission. Section 32 of this bill ~~[establishes]~~ provides for the ~~[initial terms for]~~ appointment of members of the Commission ~~[so that the terms are staggered. Section 10 of this bill creates the Indigent Defense Account in the State General Fund to receive any money appropriated to or otherwise collected by the Commission. Money in the Account does not revert to the State General Fund at the end of a fiscal year.]~~ to terms which expire on June 30, 2019.

Section 11 of this bill ~~[authorizes]~~ requires the Commission to conduct a study during the 2017-2019 interim concerning issues relating to the provision of legal representation to indigent persons. Section 11 also requires the Commission to ~~[propose minimum]~~ recommend to the Legislature standards concerning the provision of legal representation to indigent persons. The ~~[minimum standards may]~~ recommendations must include :

~~[, without limitation, standards for:]~~ (1) ~~[ensuring sufficient time and meeting space for meetings between]~~ standards related to the caseload and workload of defense counsel ; ~~[and clients;]~~ (2) ~~[ensuring that the defense counsel's ability, training and experience match the nature and complexity of the case to which he or she is appointed;]~~ minimum standards for the provision of legal representation to indigent persons; (3) ~~[ensuring that the same defense counsel represents a client through the pendency of a case;]~~ minimum standards for a statewide system for the provision of such services in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties); (4) ~~[ensuring that any contracted or appointed private attorney is authorized to accept work and cases which are privately retained;]~~ funding a statewide system for the provision of such services; and (5) ~~[the uniform collection of data. Standards]~~ any other recommendations in accordance with the findings of the Commission. Recommendations proposed by the Commission must be submitted ~~[to the Nevada Supreme Court, pursuant to the Nevada Rules on the Administrative Docket, for approval and become effective upon approval by the Court.~~

~~– Existing law creates the Office of State Public Defender within the Department of Health and Human Services and requires the Governor to appoint the State Public Defender. (NRS 180.010) Section 17 of this bill renames the Office of State Public Defender as the Office of Indigent Legal Services and removes the Office from the Department of Health and Human Services. Section 17 also requires the Commission to appoint and supervise the Chief Counsel of the Office, who is the chief administrative officer of the Office and is responsible to the Commission. Section 16 of this bill provides that the Commission may authorize the Chief Counsel to employ certain persons. Section 18 of this bill authorizes the Chief Counsel, with the approval of the Commission, to establish branch offices and requires the Commission to designate a lead attorney to supervise each such office.~~

~~– Sections 12 and 13 of this bill, respectively, authorize any county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) to transfer responsibility for the provision of all or only appellate indigent defense services in the county to the Office and requires the board of county commissioners of any such county to provide advanced notice of such a decision to the Commission. Sections 12 and 13 also authorize such a county, after providing certain notice to the Commission, to withdraw such a transfer and assume responsibility of indigent defense services.~~

~~– Section 14 of this bill requires the Commission to engage independent expertise to conduct periodic evaluations of the indigent defense services provided in a county that has retained responsibility for the provision of trial level indigent defense services in the county to determine whether such services comply with the standards adopted by the Commission pursuant to section 11. Section 14 establishes the procedure to be used if such indigent defense services provided by a county are determined not to be in~~

~~compliance, including the ability of the county to petition the Supreme Court to appeal any determination of noncompliance. If a county does not petition the Supreme Court or the court determines that the indigent defense services provided in the county are not in compliance with the standards adopted by the Commission, the county is required to transfer responsibility for the provision of indigent defense services in the county to the Office. Section 14.3 of this bill authorizes such a county required to transfer services to petition the Commission if the services provided by the Office are inadequate.~~

~~Section 14.5 of this bill requires the Commission to engage independent expertise to conduct periodic evaluations of indigent defense services provided by the Office. Section 14.5 establishes the procedure to be used if such indigent defense services are determined not to be in compliance, including requiring the Office to develop a plan to come into compliance.~~

~~Section 15 of this bill requires any county that transfers responsibility for the provision of trial level indigent defense services in the county to pay to the Commission on an annual basis the average annual amount paid by the county to provide indigent defense services during the 3 fiscal years immediately preceding the fiscal year for which the Office assumes responsibility for the provision of indigent defense services in the county. Section 15 also authorizes a county to choose to assume responsibility for indigent defense services if the county is charged more than the average annual amount paid by the county.~~

~~Under existing law, in a county which has created the office of public defender, the board of county commissioners may fill the office by appointment, and the county public defender serves at the pleasure of the board of county commissioners. (NRS 260.010) Section 28 of this bill requires the board of county commissioners to submit to the Commission a report concerning the procedures used by the board to appoint or remove the county public defender to ensure that the appointment or removal was not the result of undue political and judicial interference.]~~ to the Office of Finance in the Office of the Governor and the Legislature on or before September , 2018.

Existing law prescribes the number of legislative measures which may be requested by various departments, agencies and other entities of this State for each regular session of the Legislature. (NRS 218D.100-218D.220) Section 31.2 of this bill authorizes the Nevada Right to Counsel Commission to request for each regular session of the Legislature the drafting of not more than one legislative measure which relates to matters within the scope of the Right to Counsel Commission.

Section 31.6 of this bill makes an appropriation from the State General Fund of $115,000 for Fiscal Year 2017-2018 and $115,000 for Fiscal Year 2018-2019 to the Nevada Supreme Court for expenses related to the Commission.

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

Section 1. ~~[NRS 171.188 is hereby amended to read as follows:~~

~~171.188 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant.~~

~~2. The request must be accompanied by the defendant's affidavit, which must state:~~

~~(a) That the defendant is without means of employing an attorney; and~~

~~(b) Facts with some particularity, definiteness and certainty concerning the defendant's financial disability.~~

~~3. The district judge, justice of the peace, municipal judge or master shall forthwith consider the application and shall make such further inquiry as he or she considers necessary. If the district judge, justice of the peace, municipal judge or master:~~

~~(a) Finds that the defendant is without means of employing an attorney; and~~

~~(b) Otherwise determines that representation is required,~~

~~→ the judge, justice or master shall designate the public defender of the county or the [State Public Defender,] *Chief Counsel of the Office of Indigent Legal Services*, as appropriate, to represent the defendant. If the appropriate public defender is unable to represent the defendant, or other good cause appears, another attorney must be appointed.~~

~~4. The county *public defender* or [State Public Defender] *Chief Counsel* must be reimbursed by the city for costs incurred in appearing in municipal court. The county shall reimburse the [State Public Defender] *Chief Counsel* for costs incurred in appearing in Justice Court [.] *unless the county has transferred indigent defense services in the county pursuant to section 12, 13 or 14 of this act.* If a private attorney is appointed as provided in this section, the private attorney must be reimbursed by the county for appearance in Justice Court or the city for appearance in municipal court in an amount not to exceed $75 per case.]~~ (Deleted by amendment.)

Sec. 2. Chapter 180 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. ~~[*The Legislature hereby finds and declares that:*~~

~~*1. Section 1 of Article 1 of the Nevada Constitution recognizes the inalienable right of persons to defend life and liberty. This State is committed to the protection of individual liberty.*~~

~~*2. Section 2 of Article 1 of the Nevada Constitution acknowledges that the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers as have been or may be defined by the Supreme Court of the United States. Under the Sixth and Fourteenth Amendments to the Constitution of the United States, the obligation to provide effective representation to accused indigent persons at each critical*~~

~~*stage of criminal and delinquency proceedings rests with the states. Accordingly, it is the obligation of the Legislature to provide the general framework and resources necessary for the provision of indigent defense services in this State.*~~

~~*3. In recognition of the mandates under the Constitution of the United States and the Nevada Constitution, the Legislature enacts sections 3 to 16, inclusive, of this act for the following purposes:*~~

~~*(a) Ensuring that adequate public funding of the right to counsel is provided and managed in a cost-effective and fiscally responsible manner.*~~

~~*(b) Ensuring that the system for the provision of indigent defense services is free from undue political and judicial interference and conflicts of interest.*~~

~~*(c) Establishing a flexible system for the provision of indigent defense services that is responsive to and respectful of judicial variances and local community needs and interests.*~~

~~*(d) Ensuring that the right to counsel is provided by qualified and competent counsel in a manner that is fair and consistent throughout this State.*~~

~~*(e) Providing for statewide oversight with the objective that all indigent criminal defendants who are eligible to have appointed counsel at the expense of the public receive effective assistance of counsel at each critical stage of a proceeding.*~~

~~*(f) Providing for the ability to collect and verify objective statistical data on indigent defense services to assist state and local policymakers in making informed decisions regarding the appropriate funding levels for the purpose of ensuring the existence of an adequate system for the provision of indigent defense services.*~~

~~*(g) Providing for the development of uniform standards and guidelines for the delivery of indigent defense services and for an effective management system to monitor and enforce compliance with such standards and guidelines. Such standards and guidelines are intended to facilitate the efficient and effective provision of indigent defense services in this State for criminal and delinquency proceedings and are not intended as criteria for the judicial evaluation of the performance of defense counsel to determine the validity of a conviction or to create substantive or procedural rights that may accrue to the accused, convicted persons or counsel. Failure to adhere to such standards and guidelines does not, in and of itself, constitute ineffective assistance of counsel, and this paragraph must not be construed to overrule, expand or extend, whether directly or by analogy, the prevailing case law for making a determination regarding ineffective assistance of counsel.]~~ (Deleted by amendment.)

Sec. 4. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. ~~[*"Chief Counsel" means the Chief Counsel of the Office of Indigent Legal Services appointed pursuant to NRS 180.010.*]~~ (Deleted by amendment.)

Sec. 6. *"Commission" means the Nevada Right to Counsel Commission created by section 9 of this act.*

Sec. 7. *"Indigent defense services" means the provision of legal representation to:*

1. An indigent person who is charged with a public offense; ~~[and]~~ or

2. An indigent child who is:

(a) Alleged to be delinquent; or

(b) In need of supervision pursuant to title 5 of NRS. ~~[; or~~

~~(c) In a county whose population is less than 100,000, in need of protection pursuant to chapter 432B of NRS.]~~

Sec. 8. ~~[*"Office" means the Office of Indigent Legal Services created by NRS 180.010.*]~~ (Deleted by amendment.)

Sec. 9. *1. The Nevada Right to Counsel Commission, consisting of 13 voting members and 1 ex officio nonvoting member, is hereby created.*

2. The voting members of the Commission must be appointed as follows:

(a) One member who is a member in good standing of the State Bar of Nevada, appointed by the Majority Leader of the Senate.

(b) One member who has expertise in the finances of State Government, appointed by the Speaker of the Assembly.

(c) One member who is a retired judge or justice or has expertise in juvenile justice ~~[,]~~ and criminal law, appointed by the Chief Justice of the Nevada Supreme Court.

(d) Two members from among six nominees selected by the Board of Governors of the State Bar of Nevada, three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is less than 100,000, and three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is 100,000 or more, appointed by the Governor. The Governor must appoint one member who resides in a county whose population is less than 100,000 and one member who resides in a county whose population is 100,000 or more.

(e) ~~[Two]~~ Four members from among ~~[three]~~ six nominees selected by the Nevada Association of Counties who reside in a county whose population is less than 100,000, appointed by the Governor. The Governor must appoint one member who has expertise in the finances of local government.

(f) ~~[Three]~~ Two members from among ~~[six]~~ four nominees selected by the Board of County Commissioners of Clark County, appointed by the Governor.

(g) ~~[Two members]~~ One member from among ~~[four]~~ two nominees selected by the Board of County Commissioners of Washoe County, appointed by the Governor.

(h) One member from among three nominees selected jointly by associations of the State Bar of Nevada who represent members of racial or ethnic minorities, appointed by the Governor.

3. The Chief Justice of the Nevada Supreme Court or his or her designee is an ex officio, nonvoting member of the Commission.

4. Each person appointed to the Commission pursuant to subsection 2 must have:

(a) Significant experience in providing legal representation to indigent persons who are charged with public offenses or to indigent children who are alleged to be delinquent or in need of supervision ; ~~[or protection; or]~~

(b) A demonstrated commitment to providing effective legal representation to such persons ~~[.]~~ ; or

(c) Expertise or experience, as determined by the appointing authority, which qualifies the person to contribute to the purpose of the Commission or to carrying out any of its functions pursuant to section 11 of this act.

5. A person must not be appointed to the Commission pursuant to subsection 2 if he or she is:

(a) A current judge, justice or judicial officer;

(b) A prosecuting attorney or an employee thereof;

(c) A law enforcement officer or an employee of a law enforcement agency; or

(d) An attorney who may obtain any financial benefit from the policies adopted by the Commission.

6. In addition to the other requirements set forth in this section, not more than two persons who are county managers or members of a board of county commissioners may be appointed to the Commission pursuant to subsection 2.

7. ~~[After the initial terms, each appointed member of the Commission serves a term of 4 years, commencing on July 1.]~~ Each member of the Commission continues in office until a successor is appointed. ~~[Members may be reappointed for additional terms of 4 years in the same manner as the original appointments.]~~

8. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment for the remainder of the unexpired term.

9. Each member of the Commission:

(a) Serves without compensation; and

(b) While engaged in the business of the Commission, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

10. Each member of the Commission who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner

practicable. A state agency or local government shall not require an officer or employee who is a member of the Commission to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.

11. The Governor may remove a member of the Commission for incompetence, neglect of duty, moral turpitude, misfeasance, malfeasance or nonfeasance in office or for any other good cause.

12. A majority of the voting members of the Commission constitutes a quorum for the transaction of business at a meeting of the Commission. A majority of the voting members of the Commission is required for official action of the Commission.

Sec. 10. ~~[*1. The Indigent Defense Account is hereby created in the State General Fund, to be administered by the Commission. Any money that is received by the Commission from any source, including, without limitation, money received pursuant to a specific statute, tax, legislative appropriation, gift or grant must be deposited into the Indigent Defense Account.*~~

~~*2. Any money remaining in the Account at the end of a fiscal year remains in the Account and does not revert to the State General Fund.*~~

~~*3. Money in the Account may only be expended to administer the provisions of this chapter.*~~

~~*4. The interest and income on the money in the Account, after deducting any applicable charges, must be credited to the Account.*~~~~]~~ (Deleted by amendment.)

Sec. 11. *1. The Commission* ~~*[may propose minimum standards for]*~~ *shall conduct a study during the 2017-2019 interim concerning issues relating to the provision of indigent defense services* .

2. The Commission shall make recommendations to the Legislature to improve the provision of indigent defense services and to ensure that those services are provided in a manner that complies with the standards for the effective assistance of counsel established by the United States Supreme Court and the appellate courts of this State under the Sixth Amendment to the United States Constitution and Section 8 of Article 1 of the Nevada Constitution. The ~~*[standards proposed by the]*~~ *Commission* ~~*[may include, without limitation, standards ensuring that:]*~~ *shall make recommendations concerning:*

(a) ~~[*Defense counsel is provided sufficient time, and a space where the confidentiality of the communications between the defense counsel and his or her client is safeguarded, for meetings with his or her client.*~~

~~*(b) The ability, training and experience of defense counsel matches the nature and complexity of the case to which he or she is appointed, except that the Commission may not propose standards pursuant to this paragraph concerning the ability, training and experience of defense counsel in cases in which the death penalty is or may be sought or has been imposed if rules adopted by the Supreme Court establish such standards.*~~

~~(c) The same defense counsel continuously represents and personally appears at every court appearance through the pendency of a case, except that a standard proposed pursuant to this paragraph must provide an exemption from this requirement for ministerial, nonsubstantive tasks and court hearings.~~

~~(d) Any private provider of indigent defense services may continue to accept work and cases that are privately retained.~~

~~(e) The collection and reporting of data concerning the]~~ Standards related to the caseload and workload of defense counsel ~~[is uniform.~~

~~2. The Commission may propose minimum]~~ ;

(b) Minimum standards for the provision of indigent defense services ~~[to indigent children who reside]~~ ;

(c) Minimum standards for a statewide system for the provision of indigent defense services in a county whose population is less than 100,000 ~~[.]~~ ;

(d) Funding a statewide system for the provision of indigent services; and

(e) Any other recommendations in accordance with the findings of the Commission.

3. ~~[A standard proposed by the Commission pursuant to this section must be submitted to the Supreme Court, pursuant to the Nevada Rules on the Administrative Docket, for approval and does not become effective unless the Supreme Court approves the standard. Before submitting a proposed standard to the Supreme Court, the Commission shall conduct a public hearing on the proposed standard. Opposition to a proposed standard that has been submitted to the Supreme Court may be submitted to the Supreme Court in the manner prescribed by the Nevada Rules on the Administrative Docket. A standard proposed by the Commission pursuant to this section becomes final upon approval by the Supreme Court.~~

~~4. A standard proposed by the Commission pursuant to this section must include the fiscal impact of the proposed standard, if any, upon the State or local government.~~

~~5. A standard proposed and approved pursuant to this section is not a regulation for the purposes of chapter 233B of NRS.~~

~~6. The Commission may issue guidelines for the workload of defense counsel to be controlled to permit effective representation. Any guideline issued pursuant to this subsection must be based on objective criteria derived from the tracking of time spent by attorneys on criminal defense matters and that take into account jurisdictional variations in practice. To assist in the budgetary process, the Commission shall provide any such guidelines to all counties in this State, the Governor and the Legislature.]~~ Any state agency, political subdivision of this State or any other state or local governmental agency in this State, or any officer, employee or other person acting on behalf of such an agency or entity, shall provide, to the best ability of the agency, entity or person, information requested by the Commission to carry out any of its functions pursuant to this section.

4. The Commission may employ and contract, within the limits of legislative appropriations, such experts as necessary to carry out any of its functions pursuant to this section.

5. On or before September 1, 2018, the Commission shall submit a report of its findings and any recommendations to:

(a) The Office of Finance in the Office of the Governor; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the 80th Session of the Nevada Legislature.

Sec. 12. ~~[*1. Any county whose population is less than 100,000 may transfer responsibility for the provision of all indigent defense services in the county to the Office. The board of county commissioners of a county shall notify the Commission on or before December 31 of a calendar year if the county wishes to transfer such responsibility to the Office pursuant to this section for the fiscal year beginning on July 1 of the following calendar year.*~~

~~*2. If a county transfers responsibility for the provision of all indigent defense services in the county to the Office pursuant to subsection 1 or section 13 of this act:*~~

~~*(a) The Commission shall deem the existing system for the provision of indigent defense services in the county appropriate unless:*~~

~~*(1) The board of county commissioners requests that the Commission determine another system for the provision of indigent defense services; or*~~

~~*(2) The Office determines that the existing system does not comply with the standards adopted by the Commission pursuant to section 11 of this act or, if the transfer of responsibility is made pursuant to section 14 of this act, a final determination of noncompliance has already been made.*~~

~~*(b) If the workload of the Office does not allow for five or more full-time attorneys and the appropriate number of support staff to provide indigent defense services, the Office shall provide indigent defense services through any combination of private providers of indigent defense services, paid hourly or under contract on a case-by-case, county or regional basis.*~~

~~*(c) The Office shall compile the following information on or before January 31 of each year as it pertains to the immediately preceding calendar year:*~~

~~*(1) The name, business address and member number of the State Bar of Nevada of all attorneys providing indigent defense services.*~~

~~*(2) The number of support staff and job title of each member of support staff.*~~

~~*(3) The number of cases assigned to each attorney providing indigent defense services, categorized by the following case types:*~~

~~*(I) Delinquency cases;*~~

~~*(II) Misdemeanor cases;*~~

~~*(III) Felony cases;*~~

~~*(IV) Capital offense cases;*~~

~~*(V) Cases involving a child in need of services; and*~~

~~(VI) Cases involving a child in need of protection pursuant to chapter 432B of NRS.~~

~~(4) The number of cases completed by each attorney providing defense services, categorized by the case types set forth in subparagraph (3).~~

~~(5) The number of cases in which a defendant represented himself or herself, categorized by the case types set forth in subparagraph (3).~~

~~(6) The number of trials in which each attorney providing indigent defense services participated, categorized by the case types set forth in subparagraph (3).~~

~~(7) The amount of money expended in connection with the investigation of a case or for the fees for an expert witness.~~

~~(8) Any other statistical information reasonably determined necessary by the Commission.~~

~~3. A county that transfers responsibility for the provision of indigent defense services pursuant to this section and wishes to withdraw from that transfer must provide notice to the Commission on or before December 31 of any even-numbered year. A county which provides such notice shall assume such responsibility on July 1 of the next fiscal year. The Commission continues to have financial responsibility for the provision of indigent defense services through the end of the immediately preceding fiscal year before the county assumes responsibility for such services.]~~ (Deleted by amendment.)

Sec. 13. ~~[1. Any county whose population is less than 100,000 may transfer responsibility for the provision of appellate indigent defense services in the county to the Office and may retain responsibility for the provision of trial level indigent defense services in the county. The board of county commissioners of a county shall notify the Commission on or before December 31 of each even-numbered year as to whether the county will retain or transfer responsibility for the provision of trial level indigent defense services in the county during the fiscal year beginning on July 1 of the following calendar year.~~

~~2. A county that chooses to retain responsibility for the provision of trial level indigent defense services in the county shall:~~

~~(a) Transfer responsibility for the funding and provision of appellate indigent defense services to the Commission at no cost to the county;~~

~~(b) Fund all trial level indigent defense services provided in the county in accordance with the standards adopted by the Commission pursuant to section 11 of this act; and~~

~~(c) Submit an annual report to the Commission on or before January 31 of each year that includes the following information as it pertains to the immediately preceding calendar year:~~

~~(1) The name, business address and member number of the State Bar of Nevada of all attorneys providing indigent defense services.~~

~~(2) The number of support staff and job title of each member of support staff.~~

~~(3) The number of cases assigned to each attorney providing indigent defense services, categorized by the following case types:~~

~~(I) Delinquency cases;~~

~~(II) Misdemeanor cases;~~

~~(III) Felony cases;~~

~~(IV) Capital offense cases;~~

~~(V) Cases involving a child in need of services; and~~

~~(VI) Cases involving a child in need of protection pursuant to chapter 432B of NRS.~~

~~(4) The number of cases completed by each attorney providing indigent defense services, categorized by the case types set forth in subparagraph (3).~~

~~(5) The number of cases in which a defendant represented himself or herself, categorized by the case types set forth in subparagraph (3).~~

~~(6) The number of trials in which each attorney providing indigent defense services participated, categorized by the case types set forth in subparagraph (3).~~

~~(7) The amount of money expended in connection with the investigation of a case or for the fees for an expert witness.~~

~~(8) Any other statistical information reasonably determined necessary by the Commission.~~

~~3. The board of county commissioners of a county that chooses to retain responsibility for the provision of trial-level indigent defense services in the county pursuant to this section shall comply with the provisions of NRS 260.010.~~

~~4. A county that transfers responsibility for the provision of indigent defense services pursuant to this section and wishes to withdraw from that transfer must provide notice to the Commission on or before December 31 of any even-numbered year. A county which provides such notice shall assume such responsibility on July 1 of the next fiscal year. The Commission continues to have financial responsibility for the provision of indigent defense services through the end of the immediately preceding fiscal year before the county assumes responsibility for such services.]~~ (Deleted by amendment.)

Sec. 14. ~~[1. The Commission shall engage independent expertise to conduct periodic evaluations of the indigent defense services provided in any county that has retained responsibility, pursuant to section 12 or 13 of this act, for the provision of all or trial-level indigent defense services in the county to determine whether such indigent defense services comply with the standards adopted by the Commission pursuant to section 11 of this act. Each such county shall cooperate fully with such an evaluation.~~

~~2. After an evaluation is conducted pursuant to subsection 1, if a county whose provision of indigent defense services is found not to be in compliance with the standards adopted by the Commission pursuant to section 11 of this act, the Commission shall:~~

~~*(a) Provide the county, within 5 judicial days after receipt, a copy of any report of the results of the evaluation;*~~

~~*(b) Notify the county of such noncompliance in writing and provide the county with a period of 9 months from the date of notification to remedy such noncompliance; and*~~

~~*(c) Provide the county with any technical assistance necessary to bring the provision of indigent defense services in the county into compliance with the standards adopted by the Commission pursuant to section 11 of this act.*~~

~~*3. After the expiration of the 9-month period provided in subsection 2, if the Commission determines, after a public hearing, that the county is still not in compliance with the standards adopted by the Commission pursuant to section 11 of this act, the county may petition the Supreme Court to appeal the determination of noncompliance. If:*~~

~~*(a) The Supreme Court determines that the county is in compliance with the standards adopted by the Commission, the county may continue to provide the applicable indigent defense services in the county.*~~

~~*(b) The county does not petition the Supreme Court or the Supreme Court determines that the county is not in compliance with the standards adopted by the Commission, the county shall transfer the responsibility for the provision of indigent defense services in the county to the Office. The Office shall assume such responsibility on July 1 of the next fiscal year.]*~~ (Deleted by amendment.)

Sec. 14.3. ~~*[1. If at any time, a county required to transfer the provision of indigent defense services pursuant to paragraph (b) of subsection 3 of section 14 of this act deems such services inadequate to serve the needs of the county, the county may petition the Commission to assume responsibility for the provision of indigent defense services.*~~

~~*2. The county must submit a petition in a manner prescribed by the Commission. The petition must include, without limitation, a plan from the county to come into compliance with the standards adopted by the Commission pursuant to section 11 of this act.*~~

~~*3. If the Commission grants the petition, the county may at any time thereafter assume responsibility for the provision of indigent defense services through a procedure prescribed by the Commission.*~~

~~*4. The Commission continues to have financial responsibility for the provision of indigent defense services until the Commission makes a decision concerning the petition.]*~~ (Deleted by amendment.)

Sec. 14.5. ~~*[1. The Commission shall engage independent expertise to conduct periodic evaluations of the indigent defense services provided by the Office to any county to determine whether such indigent defense services comply with the standards adopted by the Commission pursuant to section 11 of this act.*~~

~~*2. After an evaluation is conducted pursuant to subsection 1, if the provision of indigent services by the Office is found not to be in compliance with the standards adopted by the Commission pursuant to section 11 of this*~~

~~*act, the Commission shall notify the Office and any county receiving such services of such noncompliance in writing and provide the Office with a period of 9 months from the date of notification to remedy such noncompliance. The Office shall develop a plan to come into compliance with the standards, within the 9-month period, and provide this plan to the Commission and the counties receiving services.*~~

~~*3. After the expiration of the 9-month period provided in subsection 2, if the Commission determines, after a public hearing, that the Office is still not in compliance with the standards adopted by the Commission pursuant to section 11 of this act, any county receiving services of the Office may at any time thereafter choose to assume the responsibility for the provision of indigent defense services.]*~~ (Deleted by amendment.)

Sec. 15. ~~*[1. A county that transfers responsibility for the provision of trial-level indigent defense services in the county pursuant to section 12, 13 or 14 of this act shall pay to the Commission on an annual basis the average annual amount paid by the county to provide indigent defense services during the 3 fiscal years immediately preceding the fiscal year for which the Office assumes responsibility for the provision of indigent defense services in the county. In calculating the amount a county is required to pay, any extraordinary costs accrued during such a period that were associated with the legal representation of indigent criminal defendants charged with capital offenses must not be included.*~~

~~*2. A county shall pay the amount set forth in subsection 1 to the Commission on or before July 15 of the fiscal year for which the Office assumes responsibility for the provision of indigent defense services in the county and on or before July 1 of each year thereafter.*~~

~~*3. If, for any fiscal year, a county is required to pay to the Commission more than the average annual amount paid by the county to provide indigent defense services for the 3 fiscal years, ending on June 30, 2014, June 30, 2015, and June 30, 2016, the county may at any time thereafter choose to assume the responsibility for the provision of indigent defense services.]*~~ (Deleted by amendment.)

Sec. 16. ~~*[1. The Commission may authorize the Chief Counsel to employ the following:*~~

~~*(a) A Deputy Chief Counsel;*~~

~~*(b) A Director of Appellate Counsel Services;*~~

~~*(c) A Director of Private Counsel Services;*~~

~~*(d) A Director of Training;*~~

~~*(e) A Deputy Director of Training;*~~

~~*(f) An Information Technology Officer;*~~

~~*(g) A Budget Director;*~~

~~*(h) A Director of Juvenile Justice and Dependency Standards Compliance;*~~

~~*(i) A Director of Adult Justice Standards Compliance; and*~~

~~*(j) A Director of Policy, Data and Research.*~~

~~*2. The Commission may, within the limits of available money, and subject to the standards adopted by the Commission pursuant to section 11 of this act, employ such other persons as the Commission deems necessary to perform the duties of the Commission and the Office, including, without limitation, attorneys, social workers and clerical and investigative staff.*~~

~~*3. Each attorney employed in the Office must be an attorney licensed to practice law in the State of Nevada, and shall not engage in the practice of law, except in performing the duties of office and as otherwise provided in NRS 7.065.]*~~ (Deleted by amendment.)

Sec. 17. ~~[NRS 180.010 is hereby amended to read as follows:~~

~~180.010 1. The Office of [State Public Defender]~~ *Indigent Legal Services* ~~is hereby created . [within the Department of Health and Human Services.]~~ *The head of the Office is the Commission.*

~~2. The [Governor]~~ *Commission* ~~shall appoint the [State Public Defender]~~ *Chief Counsel of the Office* ~~for a term of 4 years, and until a successor is appointed and qualified.~~ *The Chief Counsel is the chief administrative officer of the Office and is responsible to the Commission.*

~~3. The [State Public Defender:]~~ *Chief Counsel:*

~~(a) Must be an attorney licensed to practice law in the State of Nevada.~~

~~(b)~~ *Must have a minimum of 5 years' experience in criminal defense, juvenile justice, trial practice, appellate practice, dependency proceedings or any combination thereof.*

~~*(c)* Is in the unclassified service of the State.~~

~~[(c)]~~ *(d)* ~~Except as otherwise provided in NRS 7.065, shall not engage in the private practice of law.~~

~~4. [No officer or agency of the State, other than the Governor and the Director of the Department of Health and Human Services, may]~~ *The Commission shall* ~~supervise the [State Public Defender.]~~ *Chief Counsel.* ~~No officer or agency of the State, other than the [Governor,]~~ *Commission*~~, may assign the [State Public Defender]~~ *Chief Counsel* ~~duties in addition to those prescribed by this chapter.~~

~~*5. The Commission shall not interfere with the legal judgment of the Chief Counsel in regard to legal representation in any case.]*~~ (Deleted by amendment.)

Sec. 18. ~~[NRS 180.040 is hereby amended to read as follows:~~

~~180.040 1. The~~ *Commission and the* ~~Office [of the State Public Defender shall]~~ *must* ~~be in Carson City, Nevada, and the Buildings and Grounds Section of the State Public Works Division of the Department of Administration shall provide necessary office space [.]~~ *for the Commission and the Office.*

~~2. [The State Public Defender]~~ *With the approval of the Commission, the Chief Counsel* ~~may establish branch offices necessary to perform the [State Public Defender's] duties [.]~~ *of the Chief Counsel.* ~~The [State Public Defender]~~ *Commission* ~~shall designate a [deputy state public defender]~~ *lead attorney* ~~to supervise each such office.~~

~~*3. The Chief Counsel shall establish branch offices in each county that transfers responsibility for the provision of indigent defense services pursuant to section 12, 13 or 14 of this act.*~~

~~*4. Each branch office established pursuant to this section must be considered a separate office with no imputed conflict of interest absent a showing of such a conflict. In the event that such a conflict exists, the Chief Counsel shall establish another branch office or appoint an attorney from a list maintained by the Office and subject to the standards adopted by the Commission pursuant to section 11 of this act. The Chief Counsel shall compensate the attorney appointed pursuant to this subsection from the Indigent Defense Account created by section 10 of this act.]*~~ (Deleted by amendment.)

Sec. 19. ~~[NRS 180.050 is hereby amended to read as follows:~~

~~180.050 1. [The State Public Defender]~~ *With the approval of the Commission, the Office* ~~may contract with attorneys licensed to practice law in the State of Nevada and with county public defenders to provide~~ *the* ~~services of a public defender required by this chapter if [it is impracticable for the State Public Defender or the State Public Defender's deputies to provide such services for any reason.]~~ *deemed appropriate by the Commission.*

~~2. All such contract services [shall]~~ *must* ~~be performed under the supervision and control of the [State Public Defender.]~~ *Chief Counsel.]* (Deleted by amendment.)

Sec. 20. ~~[NRS 180.060 is hereby amended to read as follows:~~

~~180.060 1. The [State Public Defender]~~ *Chief Counsel* ~~may, before being designated as counsel for that person pursuant to NRS 171.188, interview an indigent person when the indigent person has been arrested and confined for a public offense or for questioning on suspicion of having committed a public offense.~~

~~2. The [State Public Defender]~~ *Chief Counsel* ~~shall, when designated pursuant to NRS 62D.030, 62D.100, 171.188 or 432B.420, and within the limits of available money, represent without charge each indigent person for whom the [State Public Defender]~~ *Chief Counsel* ~~is appointed.~~

~~3. When representing an indigent person, the [State Public Defender]~~ *Chief Counsel* ~~shall:~~

~~(a) Counsel and defend the indigent person at every stage of the proceedings, including revocation of probation or parole; and~~

~~(b) Prosecute any appeals or other remedies before or after conviction that the [State Public Defender]~~ *Chief Counsel* ~~considers to be in the interests of justice.~~

~~4. In cases of postconviction proceedings and appeals arising in counties in which the office of public defender has been created pursuant to the provisions of chapter 260 of NRS, where the matter is to be presented to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution,~~

~~the [State Public Defender] *Chief Counsel* shall prepare and present the case and the public defender of the county shall assist and cooperate with the [State Public Defender.] *Chief Counsel.*~~

~~5. The [State Public Defender] *Chief Counsel* may contract with any county in which the office of public defender has been created to provide representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.]~~ (Deleted by amendment.)

Sec. 21. ~~[NRS 180.080 is hereby amended to read as follows:~~

~~180.080 [1.] The [State Public Defender] *Chief Counsel* shall submit:~~

~~[(a)] *1.* A report on or before December 1 of each year to the [Governor] *Commission* and to each [participating] county containing a statement of:~~

~~[(1)] *(a)* The number of cases that are pending in each [participating] county;~~

~~[(2)] *(b)* The number of cases in each [participating] county that were closed in the previous fiscal year;~~

~~[(3)] *(c)* The total number of criminal defendants represented in each [participating] county with separate categories specifying the crimes charged and whether the defendant was less than 18 years of age or an adult;~~

~~[(4)] *(d)* The total number of working hours spent by the [State Public Defender and the State Public Defender's] staff *of the Office* on work for each [participating] county; and~~

~~[(5)] *(e)* The amount and categories of the expenditures made by the [State Public Defender's office.~~

~~(b) To each participating county, on] *Office.*~~

~~*2. On* or before December 1 of each even-numbered year, the total proposed budget of the [State Public Defender] *Office* for that county, including the projected number of cases and the projected cost of services attributed to the county for the next biennium.~~

~~[(c)] *3.* Such reports to the Legislative Commission as the regulations of the Commission require.~~

~~[2. As used in this section, "participating county" means each county in which the office of public defender has not been created pursuant to NRS 260.010.]]~~ (Deleted by amendment.)

Sec. 22. ~~[NRS 180.090 is hereby amended to read as follows:~~

~~180.090 Except as *otherwise* provided in [subsections 4 and 5 of NRS 180.060,] *this chapter*, the provisions of this chapter apply only to counties in which the office of public defender has not been created pursuant to the provisions of chapter 260 of NRS.]~~ (Deleted by amendment.)

Sec. 23. ~~[NRS 7.155 is hereby amended to read as follows:~~

~~7.155 The compensation and expenses of an attorney appointed to represent a defendant must be paid from the county treasury unless the proceedings are based upon a postconviction petition for habeas corpus, in which case the compensation and expenses must be paid from money appropriated to the Office of [State Public Defender,] *Indigent Legal*~~

~~*Services*, but after the appropriation for such expenses is exhausted, money must be allocated to the Office of [State Public Defender] *Indigent Legal Services* from the reserve for statutory contingency account for the payment of such compensation and expenses.]~~ (Deleted by amendment.)

Sec. 24. ~~[NRS 7.165 is hereby amended to read as follows:~~

~~"7.165 If at any time after the appointment of an attorney or attorneys the magistrate or the district court finds that money is available for payment from or on behalf of the defendant so that the defendant is financially able to obtain private counsel or to make partial payment for such representation, the magistrate or the district court may:~~

~~1. Terminate the appointment of such attorney or attorneys; or~~

~~2. Direct that such money be paid to:~~

~~(a) The appointed attorney or attorneys, in which event any compensation provided for in NRS 7.125 shall be reduced by the amount of the money so paid, and no such attorney may otherwise request or accept any payment or promise of payment for representing such defendant; or~~

~~(b) The clerk of the district court for deposit in the county treasury, if all of the compensation and expenses in connection with the representation of such defendant were paid from the county treasury, and remittance to the Office of [State Public Defender,] *Indigent Legal Services*, if such compensation and expenses were paid partly from moneys appropriated to the Office of [State Public Defender] *Indigent Legal Services* and the money received exceeds the amount of compensation and expenses paid from the county treasury.]~~ (Deleted by amendment.)

Sec. 25. ~~[NRS 34.750 is hereby amended to read as follows:~~

~~"34.750 1. A petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. If the court is satisfied that the allegation of indigency is true and the petition is not dismissed summarily, the court may appoint counsel to represent the petitioner. In making its determination, the court may consider, among other things, the severity of the consequences facing the petitioner and whether:~~

~~(a) The issues presented are difficult;~~

~~(b) The petitioner is unable to comprehend the proceedings; or~~

~~(c) Counsel is necessary to proceed with discovery.~~

~~2. If the court determines that the petitioner is unable to pay all necessary costs and expenses incident to the proceedings of the trial court and the reviewing court, including court costs, stenographic services, printing and reasonable compensation for legal services, all costs must be paid from money appropriated to the [office] *Office* of [the State Public Defender] *Indigent Legal Services* for that purpose. After appropriations for that purpose are exhausted, money must be allocated to the [office] *Office* of [the State Public Defender] *Indigent Legal Services* from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation.~~

~~3. After appointment by the court, counsel for the petitioner may file and serve supplemental pleadings, exhibits, transcripts and documents within 30 days after:~~

~~(a) The date the court orders the filing of an answer and a return; or~~

~~(b) The date of counsel's appointment,~~

~~whichever is later. If it has not previously been filed, the answer by the respondent must be filed within 15 days after receipt of the supplemental pleadings and include any response to the supplemental pleadings.~~

~~4. The petitioner shall respond within 15 days after service to a motion by the State to dismiss the action.~~

~~5. No further pleadings may be filed except as ordered by the court.]~~ (Deleted by amendment.)

Sec. 26. ~~[NRS 218D.955 is hereby amended to read as follows:~~

~~218D.955 1. The Secretary of State shall, within 3 days after receiving them, furnish to the State Printer a copy of all acts, resolutions and memorials passed at each regular or special session.~~

~~2. The Director shall:~~

~~(a) Distribute one copy of each act as printed to each county clerk, district judge, district attorney and justice of the peace in the State.~~

~~(b) Immediately upon the adjournment of the regular or special session, collect and have printed and bound advance sheets of all acts, resolutions and memorials passed at the regular or special session.~~

~~(c) Distribute one copy of the advance sheets, without charge, to each justice of the Supreme Court, to each judge of the Court of Appeals, the Attorney General, the [State Public Defender,] *Chief Counsel of the Office of Indigent Legal Services* and to each county clerk, district judge, district attorney, county public defender, justice of the peace, city attorney and municipal judge in the State, deliver to the Supreme Court Law Library a number of copies appropriate to secure the exchange of similar publications from other states, and establish the price at which the advance sheets must be sold to other persons.~~

~~3. The Legislative Counsel shall, immediately upon the adjournment of the regular or special session, prepare statutory tables and an index of all acts, resolutions and memorials passed at the regular or special session.~~

~~4. The State Printer, upon receipt of the statutory tables and index, shall prepare bound volumes of the Statutes of Nevada as provided in NRS 218D.960.]~~ (Deleted by amendment.)

Sec. 27. ~~[NRS 232.320 is hereby amended to read as follows:~~

~~232.320 1. The Director:~~

~~(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:~~

~~(1) The Administrator of the Aging and Disability Services Division;~~

~~(2) The Administrator of the Division of Welfare and Supportive Services;~~

~~(3) The Administrator of the Division of Child and Family Services;~~

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department . [, other than the State Public

~~Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.]]~~ (Deleted by amendment.)

Sec. 28. ~~[NRS 260.010 is hereby amended to read as follows:~~

~~260.010 1. In counties whose population is 100,000 or more, the boards of county commissioners shall create by ordinance the office of public defender.~~

~~2. [Except as otherwise provided by subsection 4, in]~~ *In* ~~counties whose population is less than 100,000, boards of county commissioners may in their respective counties create by ordinance, at the beginning of a fiscal year, the office of public defender [.]~~ *, unless the provision of all indigent defense services in the county for that fiscal year is transferred to the Office of Indigent Legal Services pursuant to section 12 or 14 of this act.*

~~3. [Except as otherwise provided in subsection 4, if a board of county commissioners intends to create the office of county public defender, the board shall notify the State Public Defender in writing on or before March 1 of any odd-numbered year and the office may not be created before July 1 of the same year in which the notice was given.~~

~~4. If the county contribution approved by the Legislature exceeds the estimate provided to the county on December 1 by more than 10 percent for either year of the biennium, the board of county commissioners may create the office of county public defender on July 1 of the next even-numbered year if the board notifies the State Public Defender on or before March 1 of the same year in which the office is to be created.~~

~~5.] The office of public defender when created must be filled by appointment by the board of county commissioners.~~

~~[6.]~~ *4.* ~~The public defender [serves at the pleasure of]~~ *may be removed by* ~~the board of county commissioners [.]~~ *for misconduct in office, incompetence, misfeasance, malfeasance or nonfeasance.*

~~*5. Not later than 30 days after the appointment or removal of a public defender, the board of county commissioners shall submit to the Nevada Right to Counsel Commission created by section 9 of this act a report of the procedures used by the board to ensure that the appointment or removal of the public defender, as applicable, was not the result of undue political and judicial interference.]~~ (Deleted by amendment.)

Sec. 29. ~~[NRS 260.040 is hereby amended to read as follows:~~

~~260.040 1. The compensation of the public defender must be fixed by the board of county commissioners. [The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.]~~

~~2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this~~

~~State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county [or counties] by which the deputy, assistant attorney or other employee is employed.~~

~~3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county [or counties] so served.~~

~~4. The [public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private practice of law. Except as otherwise provided in this subsection, in any other county, the] public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.~~

~~5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. [If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.]~~

~~6. In a county whose population is 700,000 or more, deputies are governed by the merit personnel system of the county.]~~ (Deleted by amendment.)

Sec. 30. ~~[NRS 260.065 is hereby amended to read as follows:~~

~~260.065 Any county in which the office of public defender has been created may contract for the services of the [State Public Defender]~~ *Office of Indigent Legal Services* ~~in providing representation for indigent persons when the court, for cause, disqualifies the county public defender or when the county public defender is otherwise unable to provide representation.]~~ (Deleted by amendment.)

Sec. 31. ~~[NRS 284.140 is hereby amended to read as follows:~~

~~284.140 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 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] *Office of Indigent Legal Services* required by law to be appointed by the Attorney General or the [State Public Defender,] *Chief Counsel of the Office of Indigent Legal Services.*~~

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

Sec. 31.2. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. For a regular session, the Nevada Right to Counsel Commission created by section 9 of this act may request the drafting of not more than one legislative measure which relates to matters within the scope of the Commission. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. A request made pursuant to this section must be on a form prescribed by the Legislative Counsel. A legislative measure requested pursuant to this section must be prefiled on or before the third Wednesday in November preceding the regular session. A legislative measure that is not prefiled on or before that day shall be deemed withdrawn.

Sec. 31.4. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and section 31.2 of this act* apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, *and section 31.2 of this act* for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 31.2 of this act* but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 31.6. 1. There is hereby appropriated from the State General Fund to the Nevada Supreme Court for expenses related to the Nevada Right to Counsel Commission created by section 9 of this act the following sums:

For the Fiscal Year 2017-2018..... $115,000

For the Fiscal Year 2018-2019..... $115,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 21, 2018, and September 20, 2019, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred and must be reverted to the State General Fund on or before September 21, 2018, and September 20, 2019, respectively.

Sec. 32. As soon as practicable after July 1, 2017, the Governor, the Majority Leader of the Senate, the Speaker of the Assembly and the Chief Justice of the Supreme Court, as applicable, shall appoint the members of the Nevada Right to Counsel Commission created pursuant to section 9 of this act ~~[as follows:~~

~~1. Members appointed pursuant to paragraphs (a) to (d), inclusive, of subsection 2 of section 9 of this act must be appointed]~~ to terms that expire on June 30, ~~[2023.]~~ 2019.

~~[2. Members appointed pursuant to paragraphs (e) and (f) of subsection 2 of section 9 of this act must be appointed to terms that expire on June 30, 2022.~~

~~3. Members appointed pursuant to paragraphs (g) and (h) of subsection 2 of section 9 of this act must be appointed to terms that expire on June 30, 2021.]~~

Sec. 33. ~~[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. 34. ~~[NRS 180.030, 180.110 and 260.020 are hereby repealed.]~~ (Deleted by amendment.)

Sec. 35. This act becomes effective on July 1, 2017 ~~[.]~~ , and expires by limitation on June 30, 2019.

~~[~~

~~TEXT OF REPEALED SECTIONS~~

~~180.030 Employment of deputies and other employees; qualifications of deputies.~~

~~1. The State Public Defender may employ:~~

~~(a) Deputy state public defenders in the unclassified service of the State.~~

~~(b) Clerical, investigative and other necessary staff in the classified service of the State.~~

~~2. Each deputy state public defender must be an attorney licensed to practice law in the State of Nevada, and shall not engage in the practice of law, except in performing the duties of office and as otherwise provided in NRS 7.065.~~

~~180.110 Collection of charges to counties for services.~~

~~1. Each fiscal year the State Public Defender may collect from the counties amounts which do not exceed those authorized by the Legislature for use of the State Public Defender's services during that year.~~

~~2. The State Public Defender shall submit to the county an estimate on or before the first day of May and that estimate becomes the final bill unless the county is notified of a change within 2 weeks after the date on which the county contribution is approved by the Legislature. The county shall pay the bill:~~

~~(a) In full within 30 days after the estimate becomes the final bill or the county receives the revised estimate; or~~

~~(b) In equal quarterly installments on or before the 1st day of July, October, January and April, respectively.~~

~~The counties shall pay their respective amounts to the State Public Defender who shall deposit the amounts with the Treasurer of the State of Nevada and shall expend the money in accordance with the State Public Defender's approved budget.~~

~~260.020 Joint action to establish office. A county may join with one or more other counties to establish one office of public defender to serve those counties.]~~

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1119 to Senate Bill No. 377 deletes provisions establishing an Office of Indigent Legal Services in place of the State Public Defender's Office. The amendment retains provisions to establish the Nevada Right to Counsel Commission but revises the composition of the Commission to include one member with State government finance experience and one member with local government finance experience with all members serving a term of two years.

Amendment No. 1119 to Senate Bill No. 377 sets forth the duties of the Commission, which is to study the provisions of indigent defense services in the State, to establish minimum standards of indigent defense services and the delivery of those services in counties whose population is under 100,000. The amendment authorizes the Commission to employ or contract with persons to meet the requirements in the bill and appropriates $115,000 each year from the State General Fund for that purpose. The amendment establishes a September 1, 2018, reporting requirement for the Commission to report on its study of indigent services in the State and authorizes one bill draft request for consideration by the 2019 Legislature.

Amendment adopted.

Bill read third time.

Remarks by Senator Segerblom.

Senate Bill No. 377 establishes the Nevada Right to Counsel Commission consisting of 13 voting members and the Chief Justice of the Nevada Supreme Court, or his or her designee as a non-voting member, to study the delivery of indigent defense services in the State.

Senate Bill No. 377 requires the Commission to make recommendations, among other items, for minimum standards related to the provision of indigent defense services and the delivery of such services for counties whose population is under 100,000. The bill authorizes the Commission to employ or contract with experts to fulfill requirements in the bill and appropriates $115,000 in FY 2018 and $115,000 in FY 2019 from the State General Fund for that purpose. Further, the Commission is required to submit a comprehensive report to the Legislative Counsel Bureau and the Governor's Finance Office by September 1, 2018, and is authorized for one bill draft request for consideration by the 2019 Legislature.

Roll call on Senate Bill No. 377:

YEAS—18.

NAYS—Gustavson, Roberson, Settelmeyer—3.

Senate Bill No. 377 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. 442.

The following Assembly amendment was read.

Amendment No. 1106.

SUMMARY—Revises provisions relating to economic development. (BDR 32-1001)

AN ACT relating to economic development; revising the requirements that a business must satisfy to obtain a partial abatement of certain taxes and certain transferable tax credits; providing for the partial abatement of certain taxes imposed on a project located at multiple sites in this State that satisfies certain capital investment and other requirements; creating the Legislative Committee on Tax Expenditures and Incentives for Economic Development; setting forth the composition and administration of the Committee; prescribing the powers and duties of the Committee; authorizing a municipality to create an improvement district to acquire, improve, equip, operate and maintain a rail project for a qualified project; revising provisions governing an improvement district created to finance certain infrastructure improvements for a qualified project; revising provisions governing the creation of a tax increment area by the governing body of a municipality; authorizing the governing body of a municipality that creates a tax increment area to enter into a contract for the payment of money in the tax increment account to a property owner to reimburse the property owner for certain costs paid by the property owner for an undertaking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Office of Economic Development to grant a partial abatement of property taxes, business taxes and sales and use taxes to

a business that locates or expands in this State and meets certain qualifications for the abatement. (NRS 274.310, 274.320, 360.750, 360.752, 360.753, 360.754, 701A.210) Under existing law, a business applying for certain types of partial abatements may meet the requirements for the partial abatement if the business satisfies certain criteria, even if the business pays its new employees less than the average hourly wage in this State and does not provide health insurance to its employees in this State. Sections 1-3 of this bill revise the eligibility criteria for these partial abatements so that to qualify for the partial abatement, a business is required to pay the new employees hired by the business a wage that is at least equal to the average statewide hourly wage and offer to all of its employees health benefits that meet standards established by the Office. Sections 1-3 and 22 of this bill remove provisions authorizing the Office to make less stringent the requirements related to the payment of wages and the offering of health benefits to employees. However, section 1 also: (1) maintains a provision of existing law that authorizes the Office to approve a reduced partial abatement if the business pays the new employees hired by the business a wage that is less than the average statewide wage; and (2) revises the criteria under which the Office may approve a reduced partial abatement under that provision. Finally, sections 1, 11 and 22 of this bill revise the eligibility criteria for certain partial abatements so that certain criteria applicable to a business expanding or locating in a county whose population is 100,000 or less (currently all counties other than Clark and Washoe Counties) also apply to a business expanding or locating in an area of such a county that is located: (1) within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture; and (2) at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture.

Under existing law, the eligibility criteria for certain partial abatements of taxes and the issuance of certain transferable tax credits require at least 50 percent of the employees engaged or anticipated to be engaged in the construction of the project for which the partial abatement or tax credits are awarded to be residents of this State. Sections 4, 6 and 9 of this bill remove the term "anticipated to be engaged" so that the eligibility criteria for the partial abatements and tax credits require at least 50 percent of the employees engaged in the construction of the project to be residents of this State.

Existing law authorizes the Office of Economic Development to approve applications for partial abatements of certain taxes and the issuance of transferable tax credits submitted by the lead participant engaged in a qualified project with other participants for a common purpose or business endeavor and which is located within the geographic boundaries of a single project site in this State. (NRS 360.880-360.980) Sections 5-7 of this bill authorize the Office to approve an application for partial abatements of certain taxes for qualified projects located on multiple project sites if the capital investment by certain participants in the qualified project will be at

least $1 billion and certain criteria are met. Sections 5 and 8 of this bill revise the definition of a "project" so that: (1) the participants must be engaged in a common business purpose or industry; and (2) such participants must be deemed to be engaged in a common business purpose or industry if the participants are in the same supply chain related to the common business purpose or industry or provide components or services related to the common business purpose or industry. Sections 6 and 9 of this bill require the lead participant in the qualified project to enter into an agreement with the governing body of the city or county in which the qualified project is located, which requires: (1) the lead participant to pay the cost of certain engineering and design work necessary to determine the cost of infrastructure improvements required by the qualified project; and (2) the governing body of the city or county to reimburse the lead participant for those costs.

Under existing law governing a partial abatement of certain taxes for a qualified project that will make a capital investment in this State of at least $1 billion, as a condition of the partial abatement, the lead participant is required to pay all or a portion of the abated taxes into a trust fund in the State Treasury until part or all of the requirements for the partial abatement have been met. If the requirements for the partial abatement are met, the abated taxes paid into the trust fund, including the interest and income earned on that money, must be returned to the lead participant. If the requirements for the partial abatement are not met, the money in the trust fund must be transferred to the entity that would have received the money if the partial abatement had not been granted, as determined by the Department of Taxation. (NRS 360.893) Sections 7 and 9.5 of this bill provide that if certain assessments, or installments thereof, used to pay bonds or other obligations of this State or a local government in connection with the qualified project are delinquent, the money in the trust fund must be used to repay any bonds or other obligations issued by this State or a local government in connection with the qualified project. Section 14.5 of this bill provides that any money collected to enforce the assessment, or installment thereof, including the proceeds of a sale of property to collect or enforce the assessment, or installment thereof, must be used to repay any amounts paid from the trust fund to repay such bonds or other obligations.

Existing law establishes provisions pursuant to which a local government that receives notice from the Office of Economic Development that a qualified project will be located within the jurisdiction of the local government and that determines there is a need to finance infrastructure projects to support the development of the qualified project may submit to the Office an economic development financing proposal pursuant to which the infrastructure projects would be financed from the proceeds of bonds, securities or other indebtedness issued by the State of Nevada. (NRS 360.981-360.992) Before the issuance of any bonds, securities or other indebtedness of the State pursuant to such an economic development financing proposal, the lead participant in the qualified project is required to

provide adequate security that the lead participant will carry out the qualified project. Section 10 of this bill provides that a lien for special assessments imposed on the qualified project may constitute such adequate security.

Existing law requires a business applying to the Office for certain partial abatements of property taxes to satisfy certain requirements, including, without limitation, a requirement to make a minimum amount of capital investment in the county in which the business is located. (NRS 361.0687) The minimum amount of the capital investment is scheduled to increase on July 1, 2017. Section 11 of this bill permanently extends the current requirement for the minimum capital investment.

Section 11.5 of this bill creates the Legislative Committee on Tax Expenditures and Incentives for Economic Development and prescribes the appointment of its membership. Section 11.6 of this bill sets forth requirements for meetings of the Committee. Under section 11.6, members of the Committee must not receive compensation or per diem or travel expenses.

Existing law requires the Board of Economic Development to review and evaluate all programs of economic development in Nevada and to make recommendations to the Legislature for legislation to improve the effectiveness of those programs in implementing the State Plan for Economic Development. (NRS 231.037) Section 11.7 of this bill requires the Legislative Committee on Tax Expenditures and Incentives for Economic Development to identify and evaluate all incentives for economic development in this State and provide the Legislature with a report concerning its activities. Section 11.8 of this bill authorizes the Committee to evaluate, review and comment on tax expenditures and to make recommendations for the addition, modification or elimination of a tax expenditure or incentive for economic development.

Existing law authorizes the governing body of any county, city or unincorporated town to create an improvement district for the acquisition, operation and maintenance of certain improvement projects and to finance the cost of any project through the issuance of bonds and the levy of assessments upon property in the improvement district. (NRS 271.265, 271.270, 271.325) Existing law authorizes a municipality in which a qualified project is located to create an improvement district to acquire, improve, equip, operate and maintain an electrical project or a fire protection project for the qualified project. (NRS 271.265) Sections 12 and 14 of this bill authorize such a municipality to create an improvement district to acquire, improve, equip, operate and maintain a rail project for a qualified project. Section 16 of this bill amends provisions governing tax increment areas to enact the same definition for "rail project" as is set forth in section 12.

Existing law authorizes the governing body of a municipality to designate a tax increment area for the purpose of creating a special account for the payment of bonds or other securities issued to defray the cost of certain

undertakings. The designation of a tax increment area by the governing body provides for the allocation of a portion of the taxes levied upon taxable property in the tax increment area each year to pay the bond requirements of loans, money advanced to or indebtedness incurred by the municipality to finance or refinance the undertaking. In addition to such property taxes, a portion of the sales and use taxes imposed within the tax increment area and the excise tax imposed on financial institutions and employers (the "modified business tax") located in the tax increment area may be allocated to pay the debt incurred by the municipality to finance or refinance the undertaking if the undertaking is a rail project in relation to a qualified project or a natural resources project. (Chapter 278C of NRS) Sections 17 and 18 of this bill authorize the governing body of a municipality to enter into an agreement with a property owner in a tax increment area under which the municipality is required to pay the property owner money from the tax increment account for costs incurred by the property owner in connection with an undertaking. Section 15 of this bill enacts a definition of "bond requirements" for the purpose of enabling a municipality to pay a property owner money from the tax increment account in accordance with an agreement entered into pursuant to sections 17 and 18.

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

Section 1. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The business offers primary jobs and is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) State that the business will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection;

(4) State that the business will offer primary jobs; and

(5) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) *Except as otherwise provided in subsection 4 or 5, the average hourly wage that will be paid by the business to its new employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.*

(e) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, offer a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees, and the health care benefits the business offers to its employees in this State will meet the minimum requirements for health care benefits established by the Office.

(f) Except as otherwise provided in *this subsection and* NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least ~~[two]~~ *one* of the following requirements:

(1) The business will have 50 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make, not later than the date which is 2 years after the date on which the abatement becomes effective, a capital investment of at least $1,000,000 in this State in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

~~[(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~(I) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The health care benefits the business provides to its employees in this State will meet the minimum requirements for health care benefits established by the Office.~~

~~(e)]~~ *(g)* Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 *, in an area*

of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or *in* a city whose population is less than 60,000, the business meets at least ~~[two]~~ *one* of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make, not later than the date which is 2 years after the date on which the abatement becomes effective, a capital investment of at least $250,000 in this State in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

~~[(3) The average hourly wage that will be paid by the new business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~(I) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The health care benefits the business provides to its employees in this State will meet the minimum requirements for health care benefits established by the Office.~~

~~(f)~~ *(h)* If the business is an existing business, the business meets at least ~~[two]~~ *one* of the following requirements:

(1) For a business in:

(I) ~~[A]~~ *Except as otherwise provided in sub-subparagraph (II), a* county whose population is 100,000 or more or a city whose population is 60,000 or more, the business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by twenty-five employees, whichever is greater, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective; or

(II) A county whose population is less than 100,000 *, an area of a county whose population is 100,000 or more that is located within the*

geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture, or a city whose population is less than 60,000, the business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by six employees, whichever is greater, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) The business will expand by making a capital investment in this State, not later than the date which is 2 years after the date on which the abatement becomes effective, in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective, and the capital investment will be in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

~~[(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~(I) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The health care benefits the business provides to its new employees in this State will meet the minimum requirements for health care benefits established by the Office.~~

~~(g)]~~ *(i)* The applicant has provided in the application an estimate of the total number of new employees which the business anticipates hiring in this State by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective if the Office approves the application.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided by the business to its employees, the projected economic impact of the business and the projected tax revenue of the business after deducting projected revenue from the abated taxes.

(c) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a business that does not meet the requirements set forth in paragraph ~~[(d), (e) or]~~ (f) *, (g) or (h)* of subsection 2;

(2) Make *any of* the requirements set forth in ~~[paragraph (d), (e) or (f)]~~ *paragraphs (d) to (h), inclusive,* of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement pursuant to this section.

4. Notwithstanding any other provision of law, the Office of Economic Development shall not approve an application for a partial abatement pursuant to this section if:

(a) The applicant intends to locate or expand in a county in which the rate of unemployment is ~~[6]~~ *7* percent or more and the average hourly wage that will be paid by the applicant to its new employees in this State is less than ~~[65]~~ *70* percent of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) The applicant intends to locate or expand in a county in which the rate of unemployment is less than ~~[6]~~ *7* percent and the average hourly wage that will be paid by the applicant to its new employees in this State is less than ~~[80]~~ *85* percent of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

5. Notwithstanding any other provision of law, if the Office of Economic Development approves an application for a partial abatement pursuant to this section, in determining the types of taxes imposed on a new or expanded business for which the partial abatement will be approved and the amount of the partial abatement:

(a) If the new or expanded business is located in a county in which the rate of unemployment is ~~[6]~~ *7* percent or more and the average hourly wage that will be paid by the business to its new employees in this State is less than ~~[80]~~ *85* percent of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

(b) If the new or expanded business is located in a county in which the rate of unemployment is less than ~~[6]~~ *7* percent and the average hourly wage that will be paid by the business to its new employees in this State is less than 100 percent of the average statewide hourly wage, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year, the Office shall not:

(1) Approve an abatement of the taxes imposed pursuant to chapter 361 of NRS which exceeds 25 percent of the taxes on personal property payable by the business each year.

(2) Approve an abatement of the taxes imposed pursuant to chapter 363B of NRS which exceeds 25 percent of the amount of tax otherwise due pursuant to NRS 363B.110.

(3) Approve an abatement of the taxes imposed pursuant to chapter 374 of NRS which exceeds the local sales and use taxes. As used in this subparagraph, "local sales and use taxes" means the taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in the political subdivision in which the new or expanded business is located, except the taxes imposed by the Sales and Use Tax Act and the Local School Support Tax Law.

6. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

7. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

8. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232

and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

9. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 8 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

10. The Office of Economic Development may adopt such regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

11. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph ~~[(d)]~~ *(f)* or ~~[(e)]~~ *(g)* of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

12. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

13. For the purposes of this section, an employee is a "full-time employee" if he or she is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in subsection 2.

Sec. 2. NRS 360.752 is hereby amended to read as follows:

360.752 1. A person who intends to locate or expand a business in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of the tax imposed on the new or expanded business pursuant to chapter 361 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The business is in one or more of the industry sectors for economic development promoted, identified or otherwise approved by the Governor's Workforce Investment Board described in NRS 232.935.

(b) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(c) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) Require the business to submit to the Department the reports required by paragraph (c) of subsection 1 of NRS 218D.355;

(3) State the agreed terms of the partial abatement, which must comply with the requirements of subsection 4;

(4) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(5) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(6) Bind the successors in interest of the business for the specified period.

(d) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(e) The business does not receive:

(1) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(2) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(f) *The average hourly wage that will be paid by the business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.*

(g) The business will offer a health insurance plan for all full-time employees that includes an option for health insurance coverage for dependents of those employees, or will abide by all applicable provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, or both, and the benefits the business offers to its employees in this State will meet the minimum requirements for benefits established by the Office.

(h) The business meets the following requirements:

(1) The business makes a capital investment of at least $1,000,000 in a program of the University of Nevada, Reno, the University of Nevada, Las Vegas, or the Desert Research Institute to be used in support of research, development or training related to the field of endeavor of the business.

(2) The business will employ 15 or more full-time employees for the duration of the abatement.

(3) The business will employ two or more graduate students from the program in which the capital investment is made on a part-time basis during years 2 through 5, inclusive, of the abatement.

(4) ~~[The average hourly wage that will be paid by the business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~(I) The business will provide a health insurance plan for all full-time employees that includes an option for health insurance coverage for dependents of those employees, or will abide by all applicable provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, or both; and~~

~~(II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.~~

~~(5)]~~ The business submits with its application for a partial abatement:

(I) A letter of support from the institution in which the capital investment is made, which is signed by the chief administrative officer of the institution and the director or chair of the program or the appropriate department, and which includes, without limitation, a summary of the financial and other resources the business will provide to the program and an agreement that the institution will provide to the Office periodic reports, at such times and containing such information as the Office may require, regarding the use of those resources; and

(II) A letter of support which is signed by the chair of the board of directors of the regional economic development authority within whose jurisdiction the institution is located and which includes, without limitation, a summary of the role the business will play in diversifying the economy and, if applicable, in achieving the broader goals of the regional economic development authority for economic development and diversification.

~~[(g)]~~ *(i)* In lieu of meeting the requirements of paragraph ~~[(f),]~~ *(h),* the business meets the following requirements:

(1) The business makes a capital investment of at least $500,000 in the Nevada State College or an institution of the Nevada System of Higher Education other than those set forth in subparagraph (1) of paragraph ~~[(f),]~~ *(h),* to be used in support of college certification or in support of research or training related to the field of endeavor of the business.

(2) The business will employ 15 or more full-time employees for the duration of the abatement.

(3) The business will employ two or more students from the college or institution in which the capital investment is made on a full-time basis during years 2 through 5, inclusive, of the abatement.

(4) ~~[The average hourly wage that will be paid by the business to its new employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:~~

~~(I) The business will provide a health insurance plan for all full-time employees that includes an option for health insurance coverage for dependents of those employees, or will abide by all applicable provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, or both; and~~

~~(II) The benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office.~~

~~(5)]~~ The business submits with its application for a partial abatement:

(I) A letter of support from the college or institution in which the capital investment is made, which is signed by the chief administrative officer of the college or institution and which includes, without limitation, a summary of the financial and other resources the business will provide to the program and an agreement that the college or institution will provide to the Office periodic reports, at such times and containing such information as the Office may require, regarding the use of those resources; and

(II) A letter of support which is signed by the chair of the board of directors of the regional economic development authority within whose jurisdiction the college or institution is located and which includes, without limitation, a summary of the role the business will play in diversifying the economy and, if applicable, in achieving the broader goals of the regional economic development authority for economic development and diversification.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall furnish to the board of county commissioners of each affected county a copy of each application for a partial abatement pursuant to this section.

(b) Shall not consider an application for a partial abatement pursuant to this section unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(c) Shall not approve an application for a partial abatement pursuant to this section unless the abatement is approved or deemed approved as described in this paragraph. The board of county commissioners of each affected county must approve or deny the application not later than 30 days after the board of county commissioners receives a copy of the application as described in paragraph (a). If the board of county commissioners does not approve or deny the application within 30 days after the board of county commissioners receives a copy of the application, the application shall be deemed approved.

(d) May, if the Office determines that such action is necessary add additional requirements that a business must meet to qualify for a partial abatement pursuant to this section.

4. If the Office of Economic Development approves an application for a partial abatement pursuant to this section:

(a) The total amount of the abatement must not exceed;

(1) Fifty percent of the amount of the taxes imposed on the personal property of the business pursuant to chapter 361 of NRS during the period of the abatement; or

(2) Fifty percent of the amount of the capital investment by the business,

➥ whichever amount is less;

(b) The duration of the abatement must be for 5 years; and

(c) The abatement applies only to the business for which the abatement was approved pursuant to this section and the property used in connection with that business.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases to meet the requirements set forth in subsection 2 or ceases operation before the time specified in the agreement described in paragraph (c) of subsection 2:

(a) The business shall repay to the county treasurer the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

(b) The applicable institution of higher education is entitled to keep the entire capital investment made by the business in that institution.

8. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. The Office of Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for a partial abatement pursuant to this section; and

(b) May adopt such regulations as the Office determines to be necessary to carry out the provisions of this section.

10. The Nevada Tax Commission:

(a) Shall adopt regulations regarding any security that a business is required to post to qualify for a partial abatement pursuant to this section; and

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section.

11. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

12. Except as otherwise provided in this subsection, as used in this section, "capital investment" includes, without limitation, an investment of real or personal property, money or other assets by a business in an institution of the Nevada System of Higher Education. The Office of Economic Development may, by regulation, specify the types of real or personal property or assets that are included within the definition of "capital investment."

Sec. 3. NRS 360.753 is hereby amended to read as follows:

360.753 1. An owner of a business or a person who intends to locate or expand a business in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of one or more of:

(a) The personal property taxes imposed on an aircraft and the personal property used to own, operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or any component of an aircraft; and

(b) The local sales and use taxes imposed on the purchase of tangible personal property used to operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or any component of an aircraft.

2. Notwithstanding the provisions of any law to the contrary and except as otherwise provided in subsections 3 and 4, the Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The applicant has executed an agreement with the Office which:

(1) Complies with the requirements of NRS 360.755;

(2) States the date on which the abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) States that the business will, after the date on which a certificate of eligibility for the partial abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Office, which must be not less than 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(4) Binds any successor in interest of the applicant for the specified period;

(b) The business is registered pursuant to the laws of this State or the applicant commits to obtaining a valid business license and all other permits required by the county, city or town in which the business operates;

(c) The business owns, operates, manufactures, services, maintains, tests, repairs, overhauls or assembles an aircraft or any component of an aircraft;

(d) *The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.*

(e) The business will, by the eighth calendar quarter following the calendar quarter in which the abatement becomes effective, offer a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees, and the health care benefits the business offers to its employees in this State will meet the minimum requirements for health care benefits established by the Office.

(f) If the business is:

(1) A new business, that it will have five or more full-time employees on the payroll of the business within 1 year after receiving its certificate of eligibility for a partial abatement; or

(2) An existing business, that it will increase its number of full-time employees on the payroll of the business in this State by 3 percent or three employees, whichever is greater, within 1 year after receiving its certificate of eligibility for a partial abatement; and

~~[(e)]~~ *(g)* The business meets at least one of the following requirements:

(1) The business will make a new capital investment of at least $250,000 in this State within 1 year after receiving its certificate of eligibility for a partial abatement.

(2) The business will maintain and possess in this State tangible personal property having a value of not less than $5,000,000 during the period of partial abatement.

(3) ~~[The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than~~

~~100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~(4)~~] The business develops, refines or owns a patent or other intellectual property, or has been issued a type certificate by the Federal Aviation Administration pursuant to 14 C.F.R. Part 21.

3. The Office of Economic Development:

(a) Shall approve or deny an application submitted pursuant to this section and notify the applicant of its decision not later than 45 days after receiving the application.

(b) Must not:

(1) Consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the partial abatement from any affected county, school district, city or town and has complied with the requirements of NRS 360.757; or

(2) Approve a partial abatement for any applicant for a period of more than 20 years.

4. The Office of Economic Development must not approve a partial abatement of personal property taxes for a business whose physical property is collectively valued and centrally assessed pursuant to NRS 361.320 and 361.3205 . ~~[unless the business is regulated under 14 C.F.R. Part 125 or 135.]~~

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office shall immediately forward a certificate of eligibility for the partial abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from personal property taxes, the appropriate county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and whose partial abatement is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (a) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from personal property taxes, to the appropriate county treasurer, the amount of the partial abatement that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the partial abatement required

to be repaid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. The Office of Economic Development may adopt such regulations as the Office determines to be necessary to carry out the provisions of this section.

9. The Nevada Tax Commission may adopt such regulations as the Commission determines are necessary to carry out the provisions of this section.

10. An applicant for a partial abatement who is aggrieved by a final decision of the Office of Economic Development may petition a court of competent jurisdiction to review the decision in the manner provided in chapter 233B of NRS.

11. If the Office of Economic Development approves an application for a partial abatement of local sales and use taxes pursuant to this section, the Department shall issue to the business a document certifying the partial abatement which can be presented to retailers and customers of the business at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2 percent.

12. As used in this section:

(a) "Aircraft" means any fixed-wing, rotary-wing or unmanned aerial vehicle.

(b) "Component of an aircraft" means any:

(1) Element that makes up the physical structure of an aircraft, or is affixed thereto;

(2) Mechanical, electrical or other system of an aircraft, including, without limitation, any component thereof; and

(3) Raw material or processed material, part, machinery, tool, chemical, gas or equipment used to operate, manufacture, service, maintain, test, repair, overhaul or assemble an aircraft or component of an aircraft.

(c) "Full-time employee" means a person who is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in subparagraph (3) of paragraph (a) of subsection 2.

(d) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(e) "Personal property taxes" means any taxes levied on personal property by the State or a local government pursuant to chapter 361 of NRS.

Sec. 4. NRS 360.754 is hereby amended to read as follows:

360.754 1. A person who intends to locate or expand a data center in this State may apply to the Office of Economic Development pursuant to this section for a partial abatement of one or more of the taxes imposed on the new or expanded data center pursuant to chapter 361 or 374 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement pursuant to this section if the Office makes the following determinations:

(a) The application is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053 and any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office of Economic Development which must:

(1) Comply with the requirements of NRS 360.755;

(2) State the date on which the abatement becomes effective, as agreed to by the applicant and the Office of Economic Development, which must not be earlier than the date on which the Office received the application;

(3) State that the data center will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Office of Economic Development, which must be at least 10 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(4) Bind the successors in interest of the applicant for the specified period.

(c) The applicant is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by each county, city or town in which the data center operates.

(d) If the applicant is seeking a partial abatement for a period of not more than 10 years, the applicant meets the following requirements:

(1) The data center will, by not later than the date that is 5 years after the date on which the abatement becomes effective, have or have added 10 or more full-time employees who are residents of Nevada and who will be employed at the data center and will continue to employ 10 or more full-time employees who are residents of Nevada at the data center until at least the date which is 10 years after the date on which the abatement becomes effective.

(2) Establishing or expanding the data center will require the data center or any combination of the data center and one or more colocated businesses to make in each county in this State in which the data center is located, by not later than the date which is 5 years after the date on which the abatement becomes effective, a cumulative capital investment of at least $25,000,000 in capital assets that will be used or located at the data center.

(3) The average hourly wage that will be paid by the data center to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The data center will, by not later than the date which is 2 years after the date on which the abatement becomes effective, provide a health insurance plan for all employees employed at the data center that includes an option for health insurance coverage for dependents of the employees; and

(II) The health care benefits provided to employees employed at the data center will meet the minimum requirements for health care benefits established by the Office of Economic Development by regulation pursuant to subsection 12.

(4) At least 50 percent of the employees engaged ~~[or anticipated to be engaged]~~ in the construction of the data center are residents of Nevada, unless waived by the Executive Director of the Office of Economic Development upon proof satisfactory to the Executive Director of the Office of Economic Development that there is an insufficient number of residents of Nevada available and qualified for such employment.

(e) If the applicant is seeking a partial abatement for a period of 10 years or more but not more than 20 years, the applicant meets the following requirements:

(1) The data center will, by not later than the date that is 5 years after the date on which the abatement becomes effective, have or have added 50 or more full-time employees who are residents of Nevada and who will be employed at the data center and will continue to employ 50 or more full-time employees who are residents of Nevada at the data center until at least the date which is 20 years after the date on which the abatement becomes effective.

(2) Establishing or expanding the data center will require the data center or any combination of the data center and one or more colocated businesses to make in each county in this State in which the data center is located, by not later than the date which is 5 years after the date on which the abatement becomes effective, a cumulative capital investment of at least $100,000,000 in capital assets that will be used or located at the data center.

(3) The average hourly wage that will be paid by the data center to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The data center will, by not later than the date which is 2 years after the date on which the abatement becomes effective, provide a health insurance plan for all employees employed at the data center that includes an option for health insurance coverage for dependents of the employees; and

(II) The health care benefits provided to employees employed at the data center will meet the minimum requirements for health care benefits established by the Office of Economic Development by regulation pursuant to subsection 12.

(4) At least 50 percent of the employees engaged ~~[or anticipated to be engaged]~~ in the construction of the data center are residents of Nevada, unless waived by the Executive Director of the Office of Economic Development upon proof satisfactory to the Executive Director of the Office of Economic Development that there is an insufficient number of residents of Nevada available and qualified for such employment.

(f) The applicant has provided in the application an estimate of the total number of new employees which the data center anticipates hiring in this State if the Office of Economic Development approves the application.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement pursuant to this section unless the Office of Economic Development has requested a letter of acknowledgment of the request for the abatement from each affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided to employees employed at the data center, the projected economic impact of the data center and the projected tax revenue of the data center after deducting projected revenue from the abated taxes.

(c) May, if the Office of Economic Development determines that such action is necessary:

(1) Approve an application for a partial abatement pursuant to this section by a data center that does not meet the requirements set forth in paragraph (d) or (e) of subsection 2;

(2) Make the requirements set forth in paragraph (d) and (e) of subsection 2 more stringent; or

(3) Add additional requirements that an applicant must meet to qualify for a partial abatement pursuant to this section.

4. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of each county in which the data center is or will be located.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section, the Office may also approve a partial abatement of taxes for each colocated business that enters into a contract to use or occupy, for a period of at least 2 years, all or a portion of the new or expanded data center. Each such colocated business shall obtain a

state business registration issued by the Secretary of State. The percentage amount of a partial abatement approved for a colocated business pursuant to this subsection must not exceed the percentage amount of the partial abatement approved for the data center. The duration of a partial abatement approved for a colocated business pursuant to this subsection must not exceed the duration of the contract or contracts entered into between the colocated business and the data center, including the duration of any contract or contracts extended or renewed by the parties. If a colocated business ceases to meet the requirements set forth in this subsection, the colocated business shall repay the amount of the abatement that was allowed in the same manner in which a data center is required by subsection 7 to repay the Department or a county treasurer. If a data center ceases to meet the requirements of subsection 2 or ceases operation before the time specified in the agreement described in paragraph (b) of subsection 2, any partial abatement approved for a colocated business ceases to be in effect, but the colocated business is not required to repay the amount of the abatement that was allowed before the date on which the abatement ceases to be in effect. A data center shall provide the Executive Director of the Office and the Department with a list of the colocated businesses that are qualified to receive a partial abatement pursuant to this subsection and shall notify the Executive Director within 30 days after any change to the list. The Executive Director shall provide the list and any updates to the list to the Department and the county treasurer of each affected county.

6. An applicant for a partial abatement pursuant to this section or a data center whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a data center whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the data center shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the abatement that was allowed pursuant to this section before the failure of the data center to comply unless the Nevada Tax Commission determines that the data center has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the data center shall, in addition to the amount of the abatement required to be repaid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made

had the partial abatement not been approved until the date of payment of the tax.

8. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 5 or 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

9. An applicant for a partial abatement pursuant to this section who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

10. For an employee to be considered a resident of Nevada for the purposes of this section, a data center must maintain the following documents in the personnel file of the employee:

(a) A copy of the current and valid Nevada driver's license of the employee or a current and valid identification card for the employee issued by the Department of Motor Vehicles;

(b) If the employee is a registered owner of one or more motor vehicles in Nevada, a copy of the current motor vehicle registration of at least one of those vehicles;

(c) Proof that the employee is a full-time employee; and

(d) Proof that the employee is covered by the health insurance plan which the data center is required to provide pursuant to sub-subparagraph (I) of subparagraph (3) of paragraph (d) of subsection 2 or sub-subparagraph (I) of subparagraph (3) of paragraph (e) of subsection 2.

11. For the purpose of obtaining from the Executive Director of the Office of Economic Development any waiver of the requirements set forth in subparagraph (4) of paragraph (d) of subsection 2 or subparagraph (4) of paragraph (e) of subsection 2, a data center must submit to the Executive Director of the Office of Economic Development written documentation of the efforts to meet the requirements and documented proof that an insufficient number of Nevada residents is available and qualified for employment.

12. The Office of Economic Development:

(a) Shall adopt regulations relating to the minimum level of health care benefits that a data center must provide to its employees to meet the requirement set forth in paragraph (d) or (e) of subsection 2;

(b) May adopt such other regulations as the Office determines to be necessary to carry out the provisions of this section; and

(c) Shall not approve any application for a partial abatement submitted pursuant to this section which is received on or after January 1, 2036.

13. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment necessary to meet the requirement set forth in paragraph (d) or (e) of subsection 2; and

(2) Any security that a data center is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section.

14. As used in this section, unless the context otherwise requires:

(a) "Colocated business" means a person who enters into a contract with a data center that is qualified to receive an abatement pursuant to this section to use or occupy all or part of the data center.

(b) "Data center" means one or more buildings located at one or more physical locations in this State which house a group of networked server computers for the purpose of centralizing the storage, management and dissemination of data and information pertaining to one or more businesses and includes any modular or preassembled components, associated telecommunications and storage systems and, if the data center includes more than one building or physical location, any network or connection between such buildings or physical locations.

(c) "Full-time employee" means a person who is in a permanent position of employment and works an average of 30 hours per week during the applicable period set forth in paragraph (d) or (e) of subsection 2.

Sec. 5. NRS 360.886 is hereby amended to read as follows:

360.886 "Project" means a project undertaken by a business or group of businesses:

1. Located within the geographic boundaries of a single project site *or sites* in this State; and

2. Engaged in a common *business* purpose or ~~[business endeavor.]~~ *industry. A business or group of businesses must be deemed to be engaged in a common business purpose or industry if the business or group of businesses are in a supply chain related to the common business purpose or industry or provide components or services related to the common business purpose or industry.*

Sec. 5.5. NRS 360.888 is hereby amended to read as follows:

360.888 "Qualified project" means a project which the Office of Economic Development determines meets all the requirements set forth in subsections 2, ~~[3 and]~~ 4 *and 5* of NRS 360.889.

Sec. 6. NRS 360.889 is hereby amended to read as follows:

360.889 1. On behalf of a project, the lead participant in the project may apply to the Office of Economic Development for:

(a) A certificate of eligibility for transferable tax credits which may be applied to:

(1) Any tax imposed by chapters 363A and 363B of NRS;

(2) The gaming license fees imposed by the provisions of NRS 463.370;

(3) Any tax imposed by chapter 680B of NRS; or

(4) Any combination of the fees and taxes described in subparagraphs (1), (2) and (3).

(b) A partial abatement of property taxes, employer excise taxes or local sales and use taxes, or any combination of any of those taxes.

2. For a project to be eligible for the transferable tax credits described in paragraph (a) of subsection 1 and the partial abatement of the taxes described in paragraph (b) of subsection 1, the lead participant in the project must, on behalf of the project:

(a) Submit an application that meets the requirements of subsection ~~[3;]~~ *4;*

(b) Provide documentation satisfactory to the Office that approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053;

(c) Provide documentation satisfactory to the Office that the participants in the project collectively will make a total new capital investment of at least $1 billion in this State within the 10-year period immediately following approval of the application;

(d) Provide documentation satisfactory to the Office that the participants in the project are engaged in a common *business* purpose or ~~[business endeavor;]~~ *industry;*

(e) Provide documentation satisfactory to the Office that the place of business of each participant is or will be located within the geographic boundaries of the project site ~~[;]~~ *or sites;*

(f) Provide documentation satisfactory to the Office that each participant in the project is registered pursuant to the laws of this State or commits to obtaining a valid business license and all other permits required by the county, city or town in which the project operates;

(g) Provide documentation satisfactory to the Office of the number of employees engaged ~~[or anticipated to be engaged]~~ in the construction of the project;

(h) Provide documentation satisfactory to the Office of the number of qualified employees employed or anticipated to be employed at the project by the participants;

(i) Provide documentation satisfactory to the Office that each employer engaged in the construction of the project provides a plan of health insurance and that each employee engaged in the construction of the project is offered coverage under the plan of health insurance provided by his or her employer;

(j) Provide documentation satisfactory to the Office that each participant in the project provides a plan of health insurance and that each employee employed at the project by each participant is offered coverage under the plan of health insurance provided by his or her employer;

(k) Provide documentation satisfactory to the Office that at least 50 percent of the employees engaged ~~[or anticipated to be engaged]~~ in construction of the project and 50 percent of the employees employed at the project are residents of Nevada, unless waived by the Executive Director of the Office upon proof satisfactory to the Executive Director of the Office that

there is an insufficient number of Nevada residents available and qualified for such employment;

(l) Agree to provide the Office with a full compliance audit of the participants in the project at the end of each fiscal year which:

(1) Shows the amount of money invested in this State by each participant in the project;

(2) Shows the number of employees engaged in the construction of the project and the number of those employees who are residents of Nevada;

(3) Shows the number of employees employed at the project by each participant and the number of those employees who are residents of Nevada; and

(4) Is certified by an independent certified public accountant in this State who is approved by the Office;

(m) Pay the cost of the audit required by paragraph (l); ~~[and]~~

(n) *Enter into an agreement with governing body of the city or county in which the qualified project is located that:*

(1) Requires the lead participant to pay the cost of any engineering or design work necessary to determine the cost of infrastructure improvements required to be made by the governing body pursuant to an economic development financing proposal approved pursuant to NRS 360.990; and

(2) Requires the lead participant to seek reimbursement for any costs paid by the lead participant pursuant to subparagraph (1) from the proceeds of bonds issued pursuant to NRS 360.991; and

(o) Meet any other requirements prescribed by the Office.

3. *In addition to meeting the requirements set forth in subsection 2, for a project located on more than one site in this State to be eligible for the partial abatement of the taxes described in paragraph (b) of subsection 1, the lead participant must, on behalf of the project, submit an application that meets the requirements of subsection 4 on or before June 30, 2019, and provide documentation satisfactory to the Office that:*

(a) The initial project will have a total of 500 or more full-time employees employed at the site of the initial project and the average hourly wage that will be paid to employees of the initial project in this State is at least 120 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year;

(b) Each participant in the project must be a subsidiary or affiliate of the lead participant; and

(c) Each participant offers primary jobs and:

(1) Except as otherwise provided in subparagraph (2), satisfies the requirements of paragraph (f) or (g) of subsection 2 of NRS 360.750, regardless of whether the business is a new business or an existing business; and

(2) If a participant owns, operates, manufactures, services, maintains, tests, repairs, overhauls or assembles an aircraft or any component of an

aircraft, that the participant satisfies the applicable requirements of paragraph (f) or (g) of subsection 2 of NRS 360.753.

➥ *If any participant is a data center, as defined in NRS 360.754, any capital investment by that participant must not be counted in determining whether the participants in the project collectively will make a total new capital investment of at least $1 billion in this State within the 10-year period immediately following approval of the application, as required by paragraph (c) of subsection 2.*

4. An application submitted pursuant to subsection 2 must include:

(a) A detailed description of the project, including a description of the common purpose or business endeavor in which the participants in the project are engaged;

(b) A detailed description of the location of the project, including a precise description of the geographic boundaries of the project site ~~[,]~~ *or sites;*

(c) The name and business address of each participant in the project, which must be an address in this State;

(d) A detailed description of the plan by which the participants in the project intend to comply with the requirement that the participants collectively make a total new capital investment of at least $1 billion in this State in the 10-year period immediately following approval of the application;

(e) If the application includes one or more partial abatements, an agreement executed by the Office with the lead participant in the project which:

(1) Complies with the requirements of NRS 360.755;

(2) States the date on which the partial abatement becomes effective, as agreed to by the applicant and the Office, which must not be earlier than the date on which the Office received the application;

(3) States that the project will, after the date on which a certificate of eligibility for the partial abatement is approved pursuant to NRS 360.893, continue in operation in this State for a period specified by the Office; and

(4) Binds successors in interest of the lead participant for the specified period; and

(f) Any other information required by the Office.

~~[4.]~~ *5.* For an employee to be considered a resident of Nevada for the purposes of this section, each participant in the project must maintain the following documents in the personnel file of the employee:

(a) A copy of the:

(1) Current and valid Nevada driver's license of the employee originally issued by the Department of Motor Vehicles more than 60 days before the hiring of the employee or a current and valid identification card for the employee originally issued by the Department of Motor Vehicles more than 60 days before the hiring of the employee; or

(2) If the employee is a veteran of the Armed Forces of the United States, a current and valid Nevada driver's license of the employee or

a current and valid identification card for the employee issued by the Department of Motor Vehicles;

(b) If the employee is a registered owner of one or more motor vehicles in Nevada, a copy of the current motor vehicle registration of at least one of those vehicles;

(c) Proof that the employee is employed full-time and scheduled to work for an average minimum of 30 hours per week; and

(d) Proof that the employee is offered coverage under a plan of health insurance provided by his or her employer.

~~[5.]~~ *6.* For the purpose of obtaining from the Executive Director of the Office any waiver of the requirement set forth in paragraph (k) of subsection 2, the lead participant in the project must submit to the Executive Director of the Office written documentation of the efforts to meet the requirement and documented proof that an insufficient number of Nevada residents is available and qualified for employment.

~~[6.]~~ *7.* The Executive Director of the Office shall make available to the public and post on the Internet website of the Office:

(a) Any request for a waiver of the requirements set forth in paragraph (k) of subsection 2; and

(b) Any approval of such a request for a waiver that is granted by the Executive Director of the Office.

~~[7.]~~ *8.* The Executive Director of the Office shall post a request for a waiver of the requirements set forth in paragraph (k) of subsection 2 on the Internet website of the Office within 3 days after receiving the request and shall keep the request posted on the Internet website for not less than 5 days. The Executive Director of the Office shall ensure that the Internet website allows members of the public to post comments regarding the request.

~~[8.]~~ *9.* The Executive Director of the Office shall consider any comments posted on the Internet website concerning any request for a waiver of the requirements set forth in paragraph (k) of subsection 2 before making a decision regarding whether to approve the request. If the Executive Director of the Office approves the request for a waiver, the Executive Director of the Office must post the approval on the Internet website of the Office within 3 days and ensure that the Internet website allows members of the public to post comments regarding the approval.

Sec. 7. NRS 360.893 is hereby amended to read as follows:

360.893 1. If the Office of Economic Development approves an application for a partial abatement of property taxes, employer excise taxes or local sales and use taxes submitted pursuant to paragraph (b) of subsection 1 of NRS 360.889, the Office shall immediately forward a certificate of eligibility for the partial abatement of the taxes described in that paragraph to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) The county treasurer of the county in which the qualified project will be located.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* partial abatement for the lead participant in the qualified project must:

(a) For property taxes, be for a duration of not more than 10 years after the effective date of the partial abatement and in an amount that equals 75 percent of the amount of the property taxes that would otherwise be owed by each participant for the qualified project;

(b) For employer excise taxes, be for a duration of not more than 10 years after the effective date of the partial abatement and in an amount that equals 75 percent of the amount of the employer excise taxes that would otherwise be owed by each participant for employees employed by the participant for the qualified project; and

(c) For local sales and use taxes, be for a duration of not more than 15 years after the effective date of the partial abatement and in an amount that equals the amount of the local sales and use taxes that would otherwise be owed by each participant in the qualified project.

3. *If the qualified project is a project located on more than one site in this State, the partial abatement for the lead participant must:*

(a) For property taxes, be for a duration of not more than 10 years after the effective date of the partial abatement and in an amount that equals 75 percent of the amount of the property taxes that would otherwise be owed by each participant for the qualified project;

(b) For employer excise taxes, be for a duration of not more than 10 years after the effective date of the partial abatement and in an amount that equals 75 percent of the amount of the employer excise taxes that would otherwise be owed by each participant for employees employed by the participant for the qualified project; and

(c) For local sales and use taxes, be for a duration of not more than 15 years after the effective date of the partial abatement and in an amount that equals that portion of the combined rate of all the local sales and use taxes payable by each participant in the qualified project each year which exceeds 0.6 percent. The Department of Taxation shall issue to the lead participant a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.6 percent. As used in this paragraph, "local sales and use taxes" means the taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in the political subdivision in which the new or expanded business is located, except the taxes imposed by the Sales and Use Tax Act.

➥ *Notwithstanding any other provision of law, if the Office of Economic Development approves an application for a partial abatement of property taxes, employer excise taxes or local sales and use taxes submitted pursuant to paragraph (b) of subsection 1 of NRS 360.889 for a lead participant of a*

qualified project located on more than one site in this State, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the qualified project for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of the taxes imposed by NRS 374.110 and 374.190.

4. As a condition of approving a partial abatement of taxes pursuant to NRS 360.880 to 360.896, inclusive, the Executive Director of the Office of Economic Development, if he or she determines it to be in the best interests of the State of Nevada, may require the lead participant to pay at such time or times as deemed appropriate, an amount of money equal to all or a portion of the abated taxes into a trust fund in the State Treasury to be held until all or a portion of the requirements for the partial abatement have been met. Interest and income earned on money in the trust fund must be credited to the trust fund. Any money remaining in the trust fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the trust fund must be carried forward to the next fiscal year. Money in the trust fund must not be used for any purpose other than the purposes set forth in ~~[subsection 4. — 4.]~~ *subsections 5 and 6.*

5. If any assessment, or installment thereof, imposed on a qualified project pursuant to chapter 271 of NRS is delinquent, the money in the trust fund established pursuant to subsection 4 must:

(a) First be used to repay the bonds or other obligations of the State which are issued in connection with the qualified project.

(b) If any money remains in the trust fund after payments are made pursuant to paragraph (a), be used to repay bonds or other obligations of a municipality issued in connection with the qualified project.

6. Upon a determination by the Executive Director of the Office of Economic Development that the requirements for the partial abatement have been met, the money in the trust fund established pursuant to subsection ~~[3,]~~ *4,* including any interest and income earned on the money during the time it was in the trust fund, must be returned to the lead participant. If the Executive Director of the Office of Economic Development determines that the requirements for the partial abatement have not been met:

(a) Except as otherwise provided in this subsection ~~[, the]~~ *:*

(1) The money in the trust fund established pursuant to subsection ~~[3]~~ *4, after any payment made pursuant to subsection 5,* must be transferred to the entity that would have received the money if the Office had not approved the partial abatement, as determined by the Department ~~[.]~~ *; and*

(2) Any amount of money in the trust fund used to repay bonds or other obligations of the State or municipality pursuant to subsection 5 must proportionally reduce the amount transferred to an entity pursuant to subparagraph (1).

(b) The interest and income earned on the money in the trust fund during the time it was in the trust fund must be distributed to an entity receiving a distribution pursuant to paragraph (a) in the proportion that the money distributed to the entity pursuant to that paragraph bears to the total money distributed pursuant to that paragraph.

~~[5.]~~ *7.* If the Office approves a partial abatement of local sales and use taxes, the Office shall issue to the lead participant in the qualified project a document certifying the partial abatement which can be presented to retailers at the time of sale. The document must clearly state the rate of sales and use taxes which the purchaser is required to pay in the county in which the abatement is effective.

Sec. 7.5. NRS 360.894 is hereby amended to read as follows:

360.894 1. The lead participant in a qualified project shall, upon the request of the Office of Economic Development, furnish the Office with copies of all records necessary to verify that the qualified project meets the eligibility requirements for any transferable tax credits issued pursuant to NRS 360.891 and the partial abatement of any taxes pursuant to NRS 360.893.

2. The lead participant shall repay to the Department or the Nevada Gaming Control Board, as applicable, any portion of the transferable tax credits to which the lead participant is not entitled if:

(a) The participants in the qualified project collectively fail to make the investment in this State necessary to support the determination by the Executive Director of the Office of Economic Development that the project is a qualified project;

(b) The participants in the qualified project collectively fail to employ the number of qualified employees identified in the certificate of eligibility approved for the qualified project;

(c) The lead participant submits any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits; or

(d) The lead participant otherwise becomes ineligible for transferable tax credits after receiving the transferable tax credits pursuant to NRS 360.880 to 360.896, inclusive.

3. Transferable tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in connection with the purchase.

4. Notwithstanding any provision of this chapter or chapter 361 of NRS, if the lead participant in a qualified project for which a partial abatement has been approved pursuant to NRS 360.893 and is in effect:

(a) Fails to meet the requirements for eligibility pursuant to that section; or

(b) Ceases operation before the time specified in the agreement described in paragraph (e) of subsection ~~[3]~~ *4* of NRS 360.889,

➥ the lead participant shall repay to the Department or, if the partial abatement is from the property tax imposed by chapter 361 of NRS, to the appropriate county treasurer, the amount of the partial abatement that was allowed to the lead participant pursuant to NRS 360.893 before the failure of the lead participant to meet the requirements for eligibility. Except as otherwise provided in NRS 360.232 and 360.320, the lead participant shall, in addition to the amount of the partial abatement required to be repaid by the lead participant pursuant to this subsection, pay interest on the amount due from the lead participant at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

5. The Secretary of State may, upon application by the Executive Director of the Office, revoke or suspend the state business registration of the lead participant in a qualified project which is required to repay any portion of transferable tax credits pursuant to subsection 2 or the amount of any partial abatement pursuant to subsection 4 and which the Office determines is not in compliance with the provisions of this section governing repayment. If the state business registration of the lead participant in a qualified project is suspended or revoked pursuant to this subsection, the Secretary of State shall provide written notice of the action to the lead participant. The Secretary of State shall not reinstate a state business registration suspended pursuant to this subsection or issue a new state business registration to the lead participant whose state business registration has been revoked pursuant to this subsection unless the Executive Director of the Office provides proof satisfactory to the Secretary of State that the lead participant is in compliance with the requirements of this section governing repayment.

Sec. 8. NRS 360.930 is hereby amended to read as follows:

360.930 "Project" means a project undertaken by a business or group of businesses:

1. Located within the geographic boundaries of a single project site in this State; and

2. Engaged in a common *business* purpose or ~~[business endeavor.]~~ *industry. A business or group of businesses must be deemed to be engaged in a common business purpose or industry if the business or group of businesses are in a supply chain related to the common business purpose or industry or provide components or services related to the common business purpose or industry.*

Sec. 9. NRS 360.945 is hereby amended to read as follows:

360.945 1. On behalf of a project, the lead participant in the project may apply to the Office of Economic Development for:

(a) A certificate of eligibility for transferable tax credits which may be applied to:

(1) Any tax imposed by chapters 363A and 363B of NRS;

(2) The gaming license fees imposed by the provisions of NRS 463.370;

(3) Any tax imposed by chapter 680B of NRS; or

(4) Any combination of the fees and taxes described in subparagraphs (1), (2) and (3).

(b) An abatement of property taxes, employer excise taxes or local sales and use taxes, or any combination of any of those taxes.

2. For a project to be eligible for the transferable tax credits described in paragraph (a) of subsection 1 and abatement of the taxes described in paragraph (b) of subsection 1, the lead participant in the project must, on behalf of the project:

(a) Submit an application that meets the requirements of subsection 3;

(b) Provide documentation satisfactory to the Office that approval of the application would promote the economic development of this State and aid the implementation of the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053;

(c) Provide documentation satisfactory to the Office that the participants in the project collectively will make a total new capital investment of at least $3.5 billion in this State within the 10-year period immediately following approval of the application;

(d) Provide documentation satisfactory to the Office that the participants in the project are engaged in a common *business* purpose or ~~[business endeavor;]~~ *industry;*

(e) Provide documentation satisfactory to the Office that the place of business of each participant is or will be located within the geographic boundaries of the project site;

(f) Provide documentation satisfactory to the Office that each participant in the project is registered pursuant to the laws of this State or commits to obtaining a valid business license and all other permits required by the county, city or town in which the project operates;

(g) Provide documentation satisfactory to the Office of the number of employees engaged ~~[or anticipated to be engaged]~~ in the construction of the project;

(h) Provide documentation satisfactory to the Office of the number of qualified employees employed or anticipated to be employed at the project by the participants;

(i) Provide documentation satisfactory to the Office that each employer engaged in the construction of the project provides a plan of health insurance and that each employee engaged in the construction of the project is offered coverage under the plan of health insurance provided by his or her employer;

(j) Provide documentation satisfactory to the Office that each participant in the project provides a plan of health insurance and that each employee employed at the project by each participant is offered coverage under the plan of health insurance provided by his or her employer;

(k) Provide documentation satisfactory to the Office that at least 50 percent of the employees engaged ~~[or anticipated to be engaged]~~ in construction of the project and 50 percent of the employees employed at the project are residents of Nevada, unless waived by the Executive Director of the Office upon proof satisfactory to the Executive Director of the Office that there is an insufficient number of Nevada residents available and qualified for such employment;

(l) Agree to provide the Office with a full compliance audit of the participants in the project at the end of each fiscal year which:

(1) Shows the amount of money invested in this State by each participant in the project;

(2) Shows the number of employees engaged in the construction of the project and the number of those employees who are residents of Nevada;

(3) Shows the number of employees employed at the project by each participant and the number of those employees who are residents of Nevada; and

(4) Is certified by an independent certified public accountant in this State who is approved by the Office;

(m) Pay the cost of the audit required by paragraph (l); ~~[and]~~

(n) *Enter into an agreement with governing body of the city or county in which the qualified project is located that:*

(1) Requires the lead participant to pay the cost of any engineering or design work necessary to determine the cost of infrastructure improvements required to be made by the governing body pursuant to an economic development financing proposal approved pursuant to NRS 360.990; and

(2) Requires the lead participant to seek reimbursement for any costs paid by the lead participant pursuant to subparagraph (1) from the proceeds of bonds of the State of Nevada issued pursuant to NRS 360.991; and

(o) Meet any other requirements prescribed by the Office.

3. An application submitted pursuant to subsection 2 must include:

(a) A detailed description of the project, including a description of the common purpose or business endeavor in which the participants in the project are engaged;

(b) A detailed description of the location of the project, including a precise description of the geographic boundaries of the project site;

(c) The name and business address of each participant in the project, which must be an address in this State;

(d) A detailed description of the plan by which the participants in the project intend to comply with the requirement that the participants collectively make a total new capital investment of at least $3.5 billion in this State in the 10-year period immediately following approval of the application;

(e) If the application includes one or more abatements, an agreement executed by the Office with the lead participant in the project which:

(1) Complies with the requirements of NRS 360.755;

(2) States that the project will, after the date on which a certificate of eligibility for the abatement is approved pursuant to NRS 360.965, continue in operation in this State for a period specified by the Office; and

(3) Binds successors in interest of the lead participant for the specified period; and

(f) Any other information required by the Office.

4. For an employee to be considered a resident of Nevada for the purposes of this section, each participant in the project must maintain the following documents in the personnel file of the employee:

(a) A copy of the current and valid Nevada driver's license of the employee or a current and valid identification card for the employee issued by the Department of Motor Vehicles;

(b) If the employee is a registered owner of one or more motor vehicles in Nevada, a copy of the current motor vehicle registration of at least one of those vehicles;

(c) Proof that the employee is employed full-time and scheduled to work for an average minimum of 30 hours per week; and

(d) Proof that the employee is offered coverage under a plan of health insurance provided by his or her employer.

5. For the purpose of obtaining from the Executive Director of the Office any waiver of the requirement set forth in paragraph (k) of subsection 2, the lead participant in the project must submit to the Executive Director of the Office written documentation of the efforts to meet the requirement and documented proof that an insufficient number of Nevada residents is available and qualified for employment.

6. The Executive Director of the Office shall make available to the public and post on the Internet website for the Office:

(a) Any request for a waiver of the requirements set forth in paragraph (k) of subsection 2; and

(b) Any approval of such a request for a waiver that is granted by the Executive Director of the Office.

7. The Executive Director of the Office shall post a request for a waiver of the requirements set forth in paragraph (k) of subsection 2 on the Internet website of the Office within 3 days after receiving the request and shall keep the request posted on the Internet website for not less than 5 days. The Executive Director of the Office shall ensure that the Internet website allows members of the public to post comments regarding the request.

8. The Executive Director of the Office shall consider any comments posted on the Internet website concerning any request for a waiver of the requirements set forth in paragraph (k) of subsection 2 before making a decision regarding whether to approve the request. If the Executive Director of the Office approves the request for a waiver, the Executive Director of the Office must post the approval on the Internet website of the Office within 3 days and ensure that the Internet website allows members of the public to post comments regarding the approval.

Sec. 9.5. NRS 360.990 is hereby amended to read as follows:

360.990 1. Upon receipt of an economic development financing proposal, the Office shall:

(a) Request from the State Treasurer a determination of the capacity available under the State's debt limit; and

(b) In consultation with any person or entity the Office determines is appropriate, review the proposal. The Office may request any additional information from the governing body as it determines is necessary to evaluate the proposal.

2. Except as otherwise provided in paragraph (c) of subsection 3, the Office shall approve, approve and modify, or reject any economic development financing proposal within 45 days after receiving the completed proposal.

3. The Executive Director of the Office may approve an economic development financing proposal only if:

(a) The proposal includes such provisions as the Executive Director of the Office determines are necessary to ensure that:

(1) The Office will enter into one or more agreements with the local government pursuant to which the Office will administer any districts or areas which are or may be created for the purpose of carrying out the infrastructure projects identified in the proposal, including, without limitation, any district or area created pursuant to chapters 271, 271A and 278C of NRS;

(2) The proceeds of any bonds, securities or other indebtedness issued pursuant to NRS 360.991 will be allocated to the Office for the purpose of providing financing for the infrastructure projects identified in the proposal;

(3) The revenues from any districts or areas created for the purpose of financing the infrastructure projects identified in the proposal will be pledged for the repayment of any bonds, securities or other indebtedness issued pursuant to NRS 360.991; and

(4) Notwithstanding any other provision of law, if the revenues from any districts or areas created for the purpose of financing the infrastructure projects identified in the proposal which are pledged for the repayment of the general obligation bonds of the State issued pursuant to NRS 360.991 are insufficient to pay any sums coming due on the bonds, before such sums are paid from the State General Fund, the local government that created the districts or areas shall promptly pay such sums to the extent of the money available in the uncommitted balance of the general fund of the local government. If the money available in the uncommitted balance of the general fund of the local government is insufficient to pay the sums coming due on the bonds ~~[,]~~ *and if, pursuant to subsection 4 of NRS 360.893, the Executive Director of the Office of Economic Development required the lead participant to pay money into a trust fund in the State Treasury, the money in the trust fund, including any interest and income earned on the money during the time it was in the trust fund, must be used to pay sums coming due on the*

bonds. If the amount of money in the trust fund is insufficient to pay the sums coming due on the bonds, the remainder of such sums must be paid in accordance with the State Securities Law. The payment of any sums by a local government pursuant to this subparagraph is not secured by a pledge of the taxing power of the local government. For the purposes of this subparagraph the uncommitted balance of the general fund of a local government is the uncommitted balance as determined by the Department of Taxation.

(b) The Executive Director of the Office makes a finding, which shall be conclusive, that the revenues pledged as provided in subparagraph (3) of paragraph (a) will be sufficient, together with any capitalized interest, to fully repay any bonds, securities or other indebtedness issued pursuant to NRS 360.991.

(c) For a proposal submitted on or after July 1, 2017, the Office submits the proposal to and obtains the approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

4. In addition to the agreements described in subparagraph (1) of paragraph (a) of subsection 3, the Office may enter into one or more cooperative agreements with any state or local agency which the Office determines is necessary to carry out an economic development financing proposal approved pursuant to this section.

5. If the Office approves an economic development financing proposal, the Office shall provide notice and a copy of the decision approving the proposal to the governing body of the local government and the State Board of Finance.

Sec. 10. NRS 360.991 is hereby amended to read as follows:

360.991 1. As soon as practicable after receiving notice from the Office that it has approved an economic development financing agreement, the State Board of Finance shall issue general obligation bonds of the State of Nevada to finance the infrastructure projects identified in the economic development financing agreement. The provisions of the State Securities Law contained in chapter 349 of NRS apply to the issuance of bonds pursuant to this section. The State Board of Finance shall issue the bonds in the amount set forth in the economic development financing agreement but shall not issue bonds in an amount that exceeds $175,000,000 for each economic development financing agreement or have outstanding at any time bonds issued pursuant to this section in an amount that exceeds $200,000,000. Before any bonds may be issued pursuant to this section, the lead participant in the qualified project must provide adequate security that the lead participant will carry out the qualified project. The security may consist of one or more performance bonds or similar documents, actual expenditures on the qualified project, commitments to make such expenditures, *a lien for special assessments pursuant to chapter 271 of NRS* or other security deemed appropriate by the Executive Director of the Office ~~[.]~~ *in consultation with the Office of the State Treasurer.* A commitment to make an expenditure may

be conditioned upon the issuance of bonds pursuant to this section but may not be subject to any other conditions.

2. The proceeds of any bonds issued pursuant to subsection 1 must be allocated to the Office in the manner prescribed by the economic development financing agreement.

Sec. 11. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Office of Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Office of Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) ~~[If]~~ *Except as otherwise provided in paragraph (b), if* the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more ~~[:~~

~~(1) The]~~ *, the* business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

~~[(I)]~~ *(1)* At least ~~[$50,000,000]~~ *$5,000,000* if the business is an industrial or manufacturing business; or

~~[(II)]~~ *(2)* At least ~~[$5,000,000]~~ *$1,000,000* if the business is not an industrial or manufacturing business,

➥ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective . ~~[; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.]~~

(b) If the business is a new business in a county whose population is less than 100,000 *, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture,* or *in* a city whose population is less than 60,000 ~~[:~~

~~(1) The]~~ *, the* business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

~~[(I)]~~ *(1)* At least ~~[$5,000,000]~~ *$1,000,000* if the business is an industrial or manufacturing business; or

~~[(II)]~~ *(2)* At least ~~[$500,000]~~ *$250,000* if the business is not an industrial or manufacturing business,

➥ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective . ~~[; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.]~~

3. Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Office of Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Subject to any limitation on the abatement set forth in NRS 360.750, not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Office of Economic Development shall notify the county assessor of the county in which the business is or will be located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Office granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 11.1. Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 11.2 to 11.8, inclusive, of this act.

Sec. 11.2. *As used in sections 11.2 to 11.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11.3 and 11.4 of this act have the meanings ascribed to them in those sections.*

Sec. 11.3. *"Committee" means the Legislative Committee on Tax Expenditures and Incentives for Economic Development created by section 11.5 of this act.*

Sec. 11.4. *"Tax expenditure" has the meaning ascribed to it in NRS 360.137.*

Sec. 11.5. *1. The Legislative Committee on Tax Expenditures and Incentives for Economic Development, consisting of six legislative members, is hereby created. The membership of the Committee consists of:*

(a) Two members of the Senate appointed by the Majority Leader of the Senate;

(b) One member of the Senate appointed by the Minority Leader of the Senate;

(c) Two members of the Assembly appointed by the Speaker of the Assembly; and

(d) One member of the Assembly appointed by the Minority Leader of the Assembly.

2. In making appointments pursuant to subsection 1:

(a) Appropriate regard must be given to a member's experience with and knowledge of matters relating to state and local government taxes and finances; and

(b) First preference must be given to members of the standing committees of the Legislature with primary jurisdiction over matters relating to taxation and second preference must be given to members of the standing committees of the Legislature with primary jurisdiction over matters relating to budgets and finances.

3. The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. After the initial selection, each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

4. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

5. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.

6. A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Sec. 11.6. 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or his or her designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred upon the Committee.

4. Each member of the Committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 11.7. The Committee shall:

1. Meet at least once each biennium to review the most recent tax expenditure report submitted by the Executive Director of the Department of Taxation pursuant to NRS 360.137.

2. Review any other reports submitted to the Legislature relating to tax expenditures and incentives for economic development.

3. Identify all incentives for economic development provided for by law in this State, including, without limitation, tax incentives, grants, loans and initiatives for workforce development.

4. Evaluate and review each incentive for economic development identified pursuant to subsection 3 at least once every 6 years. The Committee shall examine, review and comment on, without limitation:

(a) The purpose, intent or goal of the incentive for economic development.

(b) Whether the incentive for economic development is accomplishing its purpose, intent or goal.

(c) Whether there is a more effective method to achieve the goal of the incentive for economic development.

(d) The cost of the incentive for economic development to the State, including, without limitation, administrative costs and lost revenue.

(e) The impact of the incentive for economic development on the revenues of and services provided by local governments.

(f) The economic and fiscal impact of the incentive for economic development, including, without limitation:

(1) The extent to which the incentive changes business behavior;

(2) The results of the incentive for the state and local economies, including, without limitation, both positive direct and indirect impacts and any negative impacts on businesses in this State; and

(3) A comparison to the results of other incentives or programs for economic development with similar goals.

(g) Any other matters that, in the determination of the Committee, concern incentives for economic development in this State.

Sec. 11.8. The Committee may:

1. Evaluate, review and comment upon any tax expenditure within this State, including, without limitation:

(a) The purpose, intent or goal of the tax expenditure.

(b) The intended beneficiaries of the tax expenditure.

(c) Whether the tax expenditure is accomplishing its purpose, intent or goal.

(d) The manner in which the tax expenditure compares to similar tax expenditures in other states.

(e) Whether there are other tax expenditures in this State that have the same or a similar purpose, intent or goal as the tax expenditure being reviewed and the manner in which the two tax expenditures are coordinated, including, without limitation, whether the coordination between the two tax expenditures could be improved or if there are any redundancies that could be eliminated.

(f) Whether the evaluation of the tax expenditure is hindered by the unavailability of certain data.

(g) The cost of the tax expenditure, including, without limitation, administrative costs and lost revenue of the State and local governments, and an evaluation of the extent to which the tax expenditure is a cost-effective use of resources compared to other methods of accomplishing the same purpose or goal.

(h) Opportunities to improve the effectiveness of the tax expenditure.

2. Contract with private consultants or academic institutions to complete the reviews provided for by this section and section 11.7 of this act.

3. Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

4. Request that a representative of the Office of Economic Development within the Office of the Governor or a representative of the Office of Energy within the Office of the Governor appear before the Committee and provide information on programs for economic development, including, without limitation:

(a) The number of entities applying or approved for a particular program for economic development;

(b) The number of entities approved for a particular incentive for economic development;

(c) The number of entities that have used a particular incentive for economic development; and

(d) The projected and actual benefits of the programs for economic development in this State.

5. Request books, papers, records and other information from state or local governmental agencies, including, without limitation, the Nevada System of Higher Education.

6. Apply for any available grants and accept any gifts, grants or donations to assist the Committee in carrying out its duties.

7. Conduct investigations and hold hearings in connection with its duties pursuant to this section and section 11.7 of this act, and exercise any of the investigative powers set forth in NRS 218E.105 to 218E.140, inclusive.

8. Make recommendations to the Legislature concerning the addition, elimination or modification of tax expenditures and incentives for economic development.

Sec. 12. Chapter 271 of NRS is hereby amended by adding thereto a new section to read as follows:

"Rail project" means any railroad, railroad tracks, rail spurs and any structures or facilities necessary for freight rail service provided by a regional transportation commission pursuant to NRS 277A.283, including, without limitation, equipment, terminals, stations, platforms and other facilities necessary, useful or desirable for such a project and all property, easements, rights-of-way and other rights or interests incidental to the project.

Sec. 13. NRS 271.030 is hereby amended to read as follows:

271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.253, inclusive, *and section 12 of this act* have the meanings ascribed to them in those sections.

Sec. 14. NRS 271.265 is hereby amended to read as follows:

271.265 1. The governing body of a county, city or town, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) A curb and gutter project;
(b) A drainage project;
(c) An energy efficiency improvement project;
(d) A neighborhood improvement project;
(e) An off-street parking project;
(f) An overpass project;
(g) A park project;
(h) A public safety project;
(i) A renewable energy project;
(j) A sanitary sewer project;
(k) A security wall;
(l) A sidewalk project;
(m) A storm sewer project;
(n) A street project;
(o) A street beautification project;
(p) A transportation project;
(q) An underpass project;
(r) A water project;
(s) A waterfront project; and
(t) Any combination of such projects.

2. In addition to the power specified in subsection 1, the governing body of a city having a commission form of government as defined in NRS 267.010, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) An electrical project;
(b) A telephone project;
(c) A combination of an electrical project and a telephone project;
(d) A combination of an electrical project or a telephone project with any of the projects, or any combination thereof, specified in subsection 1; and
(e) A combination of an electrical project and a telephone project with any of the projects, or any combination thereof, specified in subsection 1.

3. In addition to the power specified in subsections 1 and 2, the governing body of a municipality, on behalf of the municipality and in its name, without an election, may finance an underground conversion project

with the approval of each service provider that owns the overhead service facilities to be converted.

4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than 700,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) An art project; and

(b) A tourism and entertainment project.

5. In addition to the power specified in this section, if a qualified project is located within the jurisdiction of the municipality, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality, an electrical project for the qualified project , ~~[or]~~ a fire protection project for the qualified project ~~[.]~~ *or a rail project for the qualified project.*

6. As used in this section, "qualified project" has the meaning ascribed to it in NRS 360.888 or 360.940.

Sec. 14.5. NRS 271.635 is hereby amended to read as follows:

271.635 1. Notwithstanding any provision of this chapter to the contrary, if the governing body submits to the Office of Economic Development an economic development financing proposal described in NRS 360.989 and the Office approves the proposal and an economic development financing agreement pursuant to NRS 360.990, any improvement district which is or may be created for the purpose of carrying out the projects identified in the proposal must be administered as provided in the agreement.

2. The economic development financing agreement may provide, without limitation, that:

(a) The Office of Economic Development, the Executive Director of the Office or any designee of either is authorized or required to perform any function or duty that under the provisions of this chapter would otherwise be performed by the municipality, the governing body or any officer or employee of the municipality.

(b) Any assessments or other money collected pursuant to this chapter must be paid, collected, deposited, distributed or remitted as provided in the agreement, notwithstanding any provision of this chapter to the contrary.

(c) It may be modified at any time by the Executive Director of the Office of Economic Development, in the exercise of his or her discretion and upon approval of the Board of Economic Development.

3. Notwithstanding any other provision of law, if an improvement district is administered pursuant to an economic development financing agreement

and any assessment, or installment thereof, required to be paid pursuant to this chapter is delinquent, any money collected to enforce the assessment, or installment thereof, including, without limitation, the proceeds of a sale of property to collect or enforce the assessment, or installment thereof, must, before being deposited, distributed or remitted for any other purpose, be used to repay any amounts paid pursuant to subsection 5 of NRS 360.893 from the trust fund established pursuant to subsection 4 of that section.

Sec. 14.7. NRS 271B.070 is hereby amended to read as follows:

271B.070 1. Except as otherwise provided in this section, if a qualified project is located within the jurisdiction of a municipality, the governing body of the municipality may:

(a) Create an economic diversification district for the purposes of carrying out this chapter by adopting an ordinance describing the boundaries of the district, which must be the geographic boundaries of the qualified project, and generally describing the purposes within the district for which money pledged pursuant to this chapter may be used; and

(b) For the purposes of carrying out paragraph (a), include in an ordinance adopted pursuant to that paragraph the pledge of an amount equal to the proceeds of all sales and use taxes imposed on or owed by each participant in the qualified project with regard to tangible personal property purchased in the municipality for use in the district, or stored, used or otherwise consumed in the district by the participant, during a fiscal year other than the amount of any local sales and use taxes for which the lead participant has received an abatement pursuant to an application approved by the Office of Economic Development pursuant to NRS 360.950.

2. The governing body of a municipality may not include in an ordinance adopted to create a district pursuant to paragraph (a) of subsection 1 on or after September 11, 2014, the pledge of any proceeds of the taxes imposed pursuant to NRS 374.110 or 374.111 and NRS 374.190 or 374.191 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, if the governing body obtains an opinion from independent bond counsel stating that the applicability of this provision would impair an existing contract for the sale of bonds which were issued before September 11, 2014.

3. If:

(a) The qualified project is a qualified project described in NRS 360.888;

(b) The governing body of the municipality includes in the ordinance adopted pursuant to paragraph (a) of subsection 1 a pledge of money pursuant to paragraph (b) of subsection 1; and

(c) The Executive Director of the Office of Economic Development has required the lead participant to make payments to a trust fund in the State Treasury pursuant to subsection ~~[3]~~ *4* of NRS 360.893,

➥ the governing body must include in the ordinance a provision providing that the pledge of that money is conditioned upon the lead participant

qualifying for a return of the money paid into the trust fund pursuant to subsection ~~[4]~~ *6* of NRS 360.893.

4. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

Sec. 14.9. NRS 271B.080 is hereby amended to read as follows:

271B.080 1. After the adoption of an ordinance pursuant to NRS 271B.070:

(a) The governing body of the municipality and the Department of Taxation shall enter into an agreement specifying the dates and procedure for distribution to the municipality of any money pledged pursuant to NRS 271B.070.

(b) If the qualified project is a qualified project described in NRS 360.888 and the Executive Director of the Office of Economic Development has required the lead participant to make payments to a trust fund in the State Treasury pursuant to subsection ~~[3]~~ *4* of NRS 360.893, the Department of Taxation shall deposit in that trust fund the proceeds of any taxes conditionally pledged pursuant to subsection 3 of NRS 271B.070 until:

(1) The lead participant qualifies for a return of the money paid into the trust fund pursuant to subsection ~~[4]~~ *6* of NRS 360.893, in which case the taxes conditionally pledged, including any interest and income earned on those taxes, must be distributed pursuant to the agreement described in paragraph (a); or

(2) The Executive Director determines that the requirements for the partial abatement set forth in NRS 360.893 have not been met, in which case any taxes conditionally pledged and deposited in the trust fund must be transferred to the entity that would have received those taxes if the taxes had not been conditionally pledged, as determined by the Department of Taxation. The interest and income earned on those taxes during the time the taxes were in the trust fund must be distributed to an entity receiving a distribution pursuant to this subparagraph in the proportion that the taxes distributed to the entity pursuant to this subparagraph bears to the total taxes distributed pursuant to this subparagraph.

2. If the qualified project is a qualified project described in NRS 360.940, the distributions pursuant to the agreement described in paragraph (a) of subsection 1 must:

(a) Be made not less frequently than monthly; and

(b) Cease at the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

3. If the qualified project is a qualified project described in NRS 360.888, the distributions pursuant to the agreement described in paragraph (a) of subsection 1 must:

(a) Be made not less frequently than monthly;

(b) Cease at the end of the fiscal year in which the 15th anniversary of the adoption of the ordinance creating the district occurs; and

(c) If the Executive Director of the Office of Economic Development has required the lead participant to make payments to a trust fund in the State Treasury pursuant to subsection ~~[3]~~ *4* of NRS 360.893, not commence until the lead participant qualifies for a return of the money paid into the trust fund pursuant to subsection ~~[4]~~ *6* of NRS 360.893.

Sec. 15. Chapter 278C of NRS is hereby amended by adding thereto a new section to read as follows:

"Bond requirements" means the principal of, any prior redemption premiums due in connection with and the interest on, or other amounts due in connection with, the designated bonds or other securities, advances, loans or indebtedness.

Sec. 16. NRS 278C.105 is hereby amended to read as follows:

278C.105 "Rail project" means any railroad, railroad tracks, rail spurs and any structures or facilities necessary for ~~[a]~~ *freight* rail ~~[port, and all appurtenances and incidentals, or any combination thereof, including real and other property therefor.]~~ *service provided by a regional transportation commission pursuant to NRS 277A.283, including, without limitation, equipment, terminals, stations, platforms and other facilities necessary, useful or desirable for such a project and all property, easements, rights-of-way and other rights or interests incidental to the project.*

Sec. 17. NRS 278C.150 is hereby amended to read as follows:

278C.150 1. Except as otherwise provided in subsections 2, 3 and 4, the governing body of a municipality, on the behalf and in the name of the municipality, may designate a tax increment area comprising any specially benefited zone within the municipality designated for the purpose of creating a special account for the payment of bonds or securities issued or loans, money advanced or indebtedness incurred to defray the cost of an undertaking, including, without limitation, the condemnation of property for an undertaking, as supplemented by the Local Government Securities Law, except as otherwise provided in this chapter. *The governing body of a municipality, on behalf and in the name of the municipality, may enter into a contract with any property owner in a tax increment area agreeing to pay tax increment revenues from the tax increment account created by NRS 278C.250 to such property owner for costs incurred by such owner in connection with an undertaking. Such a contract constitutes an indebtedness of the municipality for the purposes of this chapter but is not a security for the purposes of NRS 278C.280.*

2. The right-of-way property of a railroad company that is under the jurisdiction of the Surface Transportation Board must not be included in a tax increment area unless the inclusion of the property is mutually agreed upon by the governing body and the railroad company.

3. A tax increment area may not include a property that is, at the time the boundaries of the tax increment area are created, included within a redevelopment area previously established pursuant to the laws of this State.

4. The taxable property of a tax increment area must not be included in any subsequently created tax increment area until at least 50 years after the effective date of creation of the first tax increment area in which the property was included.

Sec. 18. NRS 278C.157 is hereby amended to read as follows:

278C.157 1. A municipality may adopt an ordinance ordering an undertaking and creating the tax increment area and the tax increment account pertaining thereto pursuant to NRS 278C.220 which includes provisions for:

(a) The allocation of the proceeds of any tax on the sale or use of tangible personal property to the tax increment account of the proposed tax increment area pursuant to paragraph (b) of subsection 1 of NRS 278C.250;

(b) The allocation of the proceeds of any tax imposed pursuant to NRS 363A.130 and 363B.110 to the tax increment account of the proposed tax increment area pursuant to paragraph (c) of subsection 1 of NRS 278C.250; ~~[or]~~

(c) The issuance of municipal securities and revenue securities described in paragraph (f) of subsection 1 of NRS 278C.280 ~~[.]~~ *; or*

(d) Making a contract with any property owner in a tax increment area agreeing to pay tax increment revenues from the tax increment account created by NRS 278C.250 to the property owner to reimburse the owner for costs incurred by the owner in connection with an undertaking, which contract constitutes an indebtedness of the municipality for the purposes of this chapter but is not a security for the purposes of NRS 278C.280,

➥ only for an undertaking that is a rail project in relation to a qualified project or a natural resources project, and only after approval by the Interim Finance Committee of a written request submitted by the municipality.

2. The Interim Finance Committee may approve a request submitted pursuant to this section only if the Interim Finance Committee determines that approval of the request:

(a) Will not impede the ability of the Legislature to carry out its duty to provide for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year as set forth in Article 9, Section 2 of the Nevada Constitution; and

(b) Will not threaten the protection and preservation of the property and natural resources of the State of Nevada.

3. A request submitted pursuant to this section must include any information required by the Interim Finance Committee.

4. As used in this section, "qualified project" has the meaning ascribed to it in NRS 360.888 or 360.940.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 278C.270 is hereby amended to read as follows:

278C.270 The Federal Government, the State, any public body or any ~~[natural]~~ person filing a written complaint, protest or objection in the manner and within the time provided in NRS 278C.170, may, within 30 days after the governing body has finally passed on the complaint, protest or objection by resolution pursuant to NRS 278C.210 or by ordinance pursuant to NRS 278C.220, commence an action or suit in a court of competent jurisdiction to correct or set aside the determination, but thereafter all actions or suits attacking the validity of the proceedings are perpetually barred.

Sec. 21. NRS 350A.070 is hereby amended to read as follows:

350A.070 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds validly issued as obligations for a purpose related to natural resources which are payable:

1. From taxes whether or not additionally secured by any municipal revenues available therefor;

2. For bonds issued by an irrigation district, from assessments against real property;

3. For bonds issued by a water authority organized as a political subdivision created by cooperative agreement, from revenues of the water system of the water authority or one or more of the water purveyors who are members of the water authority or any combination thereof;

4. For bonds issued by a wastewater authority, from revenues of the water reclamation system of the wastewater authority or one or more of the municipalities that are members of the wastewater authority, or any combination thereof;

5. For bonds issued by a flood management authority, from revenues of the flood management authority or one or more of the municipalities that are members of the flood management authority, or any combination thereof; or

6. For assessment bonds issued by a municipality under chapter 271 of NRS ~~[.]~~ *from assessments against real property.*

Sec. 22. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. The Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which the abatement becomes effective, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) ~~[If]~~ *Except as otherwise provided in paragraph (e), if* the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State in capital assets that will be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least 175 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that is provided by a third-party administrator and includes health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 *, in an area of a county whose population is 100,000 or more that is located within the geographic boundaries of an area that is designated as rural by the United States Department of Agriculture and at least 20 miles outside of the geographic boundaries of an area designated as urban by the United States Department of Agriculture,* or *in* a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State in capital assets that will be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least 175 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that is provided by a third-party administrator and includes health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

(g) The facility is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of process heat from solar renewable energy or a wholesale facility for the generation of electricity from renewable energy unless the application is approved or deemed approved pursuant to this subsection. The board of county commissioners of a county must provide notice to the Director that the board intends to consider an application and, if such notice is given, must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners:

(a) Shall, in considering an application pursuant to this subsection, make a recommendation to the Director regarding the application;

(b) May, in considering an application pursuant to this subsection, deny an application only if the board of county commissioners determines, based on relevant information, that:

(1) The projected cost of the services that the local government is required to provide to the facility will exceed the amount of tax revenue that the local government is projected to receive as a result of the abatement; or

(2) The projected financial benefits that will result to the county from the employment by the facility of the residents of this State and from capital investments by the facility in the county will not exceed the projected loss of tax revenue that will result from the abatement;

(c) Must not condition the approval of the application on a requirement that the facility agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility; and

(d) May, without regard to whether the board has provided notice to the Director of its intent to consider the application, make a recommendation to the Director regarding the application.

➥ If the board of county commissioners does not approve or deny the application within 30 days after the board receives from the Director a copy of the application, the application shall be deemed approved.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet ~~[the requirements]~~ *any requirement* set forth in *subparagraph (1) or (2) of* paragraph (d) or *subparagraph (1) or (2) of paragraph* (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

4. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

5. The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

6. The provisions of subparagraph (4) of paragraph (d) of subsection 1 and subparagraph (4) of paragraph (e) of subsection 1 concerning the average hourly wage of the employees working on the construction of a facility do not apply to the wages of an apprentice as that term is defined in NRS 610.010.

7. As used in this section, "wage" or "wages" has the meaning ascribed to it in NRS 338.010.

Sec. 23. 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. 24. The amendatory provisions of this act do not apply to or otherwise affect any abatement of taxes or deferment of the payment of taxes approved by the Office of Economic Development or the Director of the Office of Energy before July 1, 2017.

Sec. 25. 1. This act becomes effective on July 1, 2017.

2. Section 2 of this act expires by limitation on June 30, 2023.

3. Sections 5, 5.5, 6, 7, 7.5, 14.7 and 14.9 of this act expire by limitation on June 30, 2032.

4. Section 3 of this act expires by limitation on June 30, 2035.

5. Sections 8 and 9 of this act expire by limitation on June 30, 2036.

6. Section 22 of this act expires by limitation on June 30, 2049.

7. Section 4 expires by limitation on December 31, 2056.

Senator Ratti moved that the Senate do not concur in Assembly Amendment No. 1106 to Senate Bill No. 442.

Motion carried.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 394, 544, 545; Assembly Bills Nos. 7, 124, 296, 303, 327, 343, 354, 467, 494.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Gansert, the privilege of the floor of the Senate Chamber for this day was extended to Glenn Gansert, Kirsten Gansert and Mackenzie Gansert.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Cynthia Clampitt, Lona Domenici and Arzella Moots.

Senator Ford moved that the Senate adjourn until Sunday, June 4, 2017, at 1:00 p.m.

Motion carried.

Senate adjourned at 10:22 p.m.

Approved:

MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate