## THE SIXTY-FIFTH DAY

CARSON CITY (Tuesday), April 6, 2021

Senate called to order at 11:58 a.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Chaplain, Minister Brian Underwood.

Lord, to whom all desires are known and from whom no secrets are hidden, we come before You this glorious day seeking Your will for Your people. As we do this, we give You praise for the blessing of life and the blessing to serve You today through the gifts, talents and wisdom You give us.

Thank You, Father, for these leaders and staff members. We have many prayers for them today, and we ask that You grant them full measure of health and perseverance as they continue to seek You during these often long days of service to Your people. You teach us not to become weary in doing good. In the proper time, we will reap a harvest if we do not give up. Allow these trusted servants to hear and heed these words to Your glory.

In this same way, Father, anoint these humble servants with hearts committed to open discussion that casts aside partisanship and focuses on prosperity for the greater good of Your people. Grant them ears to truly hear the issues before them in a way that opens the door toward conversations of consensus.

Lord, we thank You for these United States and the privilege to be Americans. I ask that our beloved State of Nevada will be united to carry out Your work in Your way.

In the Name of the One who is, who was and is to come,

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 COMMITTEE

*Madam President:*

Your Committee on Education, to which was referred Senate Bill No. 249, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MOISES DENIS, *Chair*

*Madam President:*

Your Committee on Finance, to which was re-referred Senate Bill No. 68, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

CHRIS BROOKS, *Chair*

*Madam President:*

Your Committee on Growth and Infrastructure, to which were referred Senate Bills Nos. 232, 362, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DALLAS HARRIS, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 5, 2021

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 187.

CAROL AIELLO-SALA
*Assistant Chief Clerk of the Assembly*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 5, 2021

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the exemption of: Senate Bill No. 377.

WAYNE THORLEY
*Fiscal Analysis Division*

April 6, 2021

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 258.

WAYNE THORLEY
*Fiscal Analysis Division*

MOTIONS, RESOLUTIONS AND NOTICES

Senate Joint Resolution No. 6.

Resolution read.

Remarks by Senator Spearman.

Senate Joint Resolution No. 6 expresses support for the creation of a retirement plan that addresses the loss of retirement benefits for military spouses due to frequent relocations. The resolution further urges the federal government to implement such a retirement plan that is funded by the Department of Defense Appropriations Act.

Roll call on Senate Joint Resolution No. 6:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 6 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Senate Joint Resolution No. 10.

Resolution read.

Remarks by Senators Ohrenschall, Donate, Pickard and Denis.

SENATOR OHRENSCHALL:

Senate Joint Resolution No. 10 urges the United States Congress to protect the public lands, including and adjacent to Sunrise Mountain, Frenchman Mountain and Rainbow Gardens in Clark County by designating all or portions of the area as a national conservation area, national recreation area, national monument or applying other federal protections that Congress deems appropriate for these important and scenic lands.

Our constituents are eager to get outdoors, to be able to hike, to be able to camp and picnic and go to special places. Sunrise Mountain, Frenchman Mountain and Rainbow Gardens are extremely special places. The Gypsum Cave is there. My colleague from Senate District 14 just lent me a book published in 1915 by Professor Harrington about his research in the Gypsum Cave. There is evidence of early human and animal life in this area that have filled up museums throughout the Country. There is a rock formation called the Great Unconformity that shows billions of years of age of the Earth. I believe there is only one other place on the planet that has this for people to see.

There is great hiking in the area. Some people enjoy going to Rainbow Gardens for off-highway recreation. There are also endangered plant species in that area. The area has tremendous potential if a little more attention was paid to it from the federal government. If we can get facilities such as trails, parking and bathrooms, people in southern Nevada and the entire area will be able to enjoy this. I urge support of this resolution.

SENATOR DONATE:

I want to commend the Senator from District 21 for bringing Senate Joint Resolution No. 10 forward. Even though it is a resolution to Congress, it is long-overdue conversation that will finally begin to prioritize the land around Sunrise Mountain, French Mountain and Rainbow Gardens. I am a proud alum of East Career and Technical Academy, which is located at the base of Sunrise Mountain. I spent many years admiring the landscape near my high school. Occasionally, we would chase the soccer balls that flew over the gate into the terrain. We learned about the Great Unconformity in my physics class, but we know there are many other reasons this land is treasured by many of the residents of east Las Vegas. For too many years, this land has been ignored and left behind. Trash has piled up over the course of the pandemic. Residents have been exposed to unsafe hiking conditions and more must be done to ensure the environment is protected. I was excited to learn Senate Joint Resolution No. 10 would come through the Committee on Natural Resources. I urge my colleagues to support this legislation.

SENATOR PICKARD:

What are we protecting with this legislation? The formations you are describing are those that are completely undevelopable. No one could develop on these lands. Is there discussion about the extent of this? How much developable ground are we talking about involving? Do we know what the impact there will be? Have we defined what we are protecting, or is this just a letter to Congress to say we want something done to protect the important formations?

SENATOR OHRENSCHALL:

The resolution speaks to public lands that include and are adjacent to Sunrise Mountain, French Mountain and Rainbow Gardens. These lands are already under federal control, but they have not been designated as a conservation area, a recreational area or a national monument. If you look at the history of the Gypsum Cave or the Great Unconformity, there are areas that are worthy of such designation and protection. Red Rock Canyon, in southern Nevada, is a gem and a treasure on the western end of the Spring Mountain range. If you look back 60 or 70 years, prior to federal protections for Red Rock Canyon, people were unfortunately using the area to dump old cars to use for target practice. There was much garbage in the area, and the trails were not maintained. We now have this treasure there. During the pandemic, when Red Rock Canyon and Mt. Charleston had closed all hiking trails, I saw many families hiking in the Sunrise Mountain, Frenchman Mountain or Rainbow Gardens. These trails had not been maintained but were ones people used to hike for fun. There is tremendous potential in the area. If Congress will act on this resolution, it will be a great benefit to everyone in southern Nevada and adjacent areas. It will allow those in the area to get outside and recreate. This resolution speaks to the federal, public lands that currently need a lot more attention and protection.

SENATOR PICKARD:

Almost all of the undeveloped, available ground in that area is locked up in Bureau of Land Management (BLM) control. Have we done studies to determine how much of that BLM property is developable? Is that included in the proposal? Is this proposal a letter to Congress that does not consider the extent of the protection and is simply to protect the land? Are we foreclosing development and expansion in appropriate areas by encouraging the protection of the entire area, or are there specific areas we are trying to protect.

SENATOR OHRENSCHALL:

The research I have done currently shows that in the Federal Lands bills pending in the Congress, there is no current increase in protection for this area. Senate Joint Resolution No. 10 is written to give Congress the freedom to look at the federal lands they would deem most appropriate for increased protection. What is developable or not is in the eye of the beholder. We have seen

development spread to almost every end of the Valley, and it continues. There are areas that need protection in the way Congress previously stepped up and protected Red Rock Canyon.

SENATOR DENIS:

I stand in support of Senate Joint Resolution No. 10. Having grown up for most of my life on the east side of the Valley in Las Vegas, I have had many opportunities to participate in activities at Sunrise and Frenchman Mountains. This includes the Great Unconformity and the Gypsum Cave. It is important to encourage Congress to do things that will protect us in the future. This is an important part of the Valley, and I support this resolution.

SENATOR OHRENSCHALL:

I am hopeful Congress will act upon receipt of Senate Joint Resolution No. 10. I would be remiss not to mention those who worked hard on this resolution. This includes our former colleague, State Senator Tom Hickey, who used to represent much of this area. This was a passion he had and a discussion he and I had many years ago before we lost former Senator Hickey. We wanted to unlock the potential we had in Sunrise Mountain and Frenchman Mountain for people to enjoy the area. Helen Mortenson, the widow of our late colleague, former Assemblyman Henry Mortenson, has worked tirelessly with a group called Citizens for Active Management. Dr. Steve Rowland, emeritus professor of geology at the University of Nevada, Las Vegas, worked tireless as well, as did many others. I want to thank the Chair of the Committee on Natural Resources for being passionate about this issue as well. I urge its support.

Roll call on Senate Joint Resolution No. 10:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 10 having received a constitutional majority, Madam President declared it passed.

Resolution ordered transmitted to the Assembly.

Senator Harris has approved the addition of Senator Spearman as a sponsor of Senate Bill No. 211.

Senator Harris has approved the addition of Senator Donate as a primary sponsor and Senator Spearman as a sponsor of Senate Bill No. 287.

Senator Ohrenschall has approved the addition of Senator Scheible as a sponsor of Senate Bill No. 349.

Senator Ohrenschall has approved the addition of Senators Hansen and Scheible as sponsors of Senate Joint Resolution No. 10.

Senator Spearman has returned to full participation in the Senate Chamber, and the use of remote-technology systems to attend, participate, vote and take any other action in the proceedings of the Senate is no longer necessary.

## INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 408—AN ACT relating to pharmacy; revising certain requirements relating to the officers and employees of the State Board of Pharmacy; requiring certain meetings of the Board to be open and public; authorizing the Board to enter into certain agreements; authorizing the Board to require certain persons to undergo a criminal background check; requiring an applicant for registration as a pharmacist or pharmaceutical technician to

undergo a criminal background check; increasing certain fees; revising provisions relating to the imposition of disciplinary action against a person who is regulated by the Board; providing a penalty; and providing other matters properly relating thereto.

Senator Brooks moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Assembly Bill No. 187.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 14.

Bill read second time.

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

Amendment No. 2.

SUMMARY—Revises provisions relating to certain emergency response plans and assessments. (BDR 36-280)

AN ACT relating to emergency management; revising requirements relating to the distribution by the Division of Emergency Management of the Department of Public Safety of a written guide to assist a person or governmental entity required to file certain emergency response plans; expanding the types of services regarding which certain utilities are required to develop and submit vulnerability assessments and emergency response plans; requiring certain state agencies to coordinate with the Division of Emergency Management to annually compile a list of each utility and provider of new electric resources required to submit a vulnerability assessment and emergency response plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Division of Emergency Management within the Department of Public Safety. (NRS 414.040) Among its various duties under existing law, the Division is required to: (1) develop a written guide to assist a person or governmental entity that is required to file an emergency response plan; and (2) provide the guide to certain persons and governmental entities that are required to file an emergency response plan. (NRS 414.040) Section 1 of this bill: (1) requires the Division to post the guide on a publicly accessible Internet website maintained by the Division; and (2) makes the requirement to provide a copy of the written guide to certain persons or governmental entities only upon the request of such a person or entity.

Existing law requires certain persons or entities to: (1) develop an emergency response plan for a school, a city or county, a resort hotel and a utility; and (2) submit such a plan to the Division of Emergency Management.

(NRS 239C.250, 239C.270, 388.243, 394.1687, 463.790) Existing law additionally requires each public or private utility that provides water service, electric service or natural gas service to 500 or more service locations, or operates a pipeline necessary to provide such service, and each provider of new electric resources to conduct a vulnerability assessment and submit the assessment to the Division. (NRS 293C.110, 239C.270 ~~[,]~~ , 704B.130) Section 1.5 of this bill adds wastewater as one of the services regarding which such a utility is required to conduct and submit a vulnerability assessment and develop and submit an emergency response plan. Section 2 of this bill requires the Public Utilities Commission of Nevada, the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of Energy in the Office of the Governor to coordinate with the Division of Emergency Management to annually compile a list of each utility and provider of new electric resources required to submit a vulnerability assessment and an emergency response plan.

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

Section 1. NRS 414.040 is hereby amended to read as follows:

414.040 1. A Division of Emergency Management is hereby created within the Department of Public Safety. The Chief of the Division is appointed by and holds office at the pleasure of the Director of the Department of Public Safety. The Division is the State Agency for Emergency Management and the State Agency for Civil Defense for the purposes of the Compact ratified by the Legislature pursuant to NRS 415.010. The Chief is the State's Director of Emergency Management and the State's Director of Civil Defense for the purposes of that Compact.

2. The Chief may employ technical, clerical, stenographic and other personnel as may be required, and may make such expenditures therefor and for other expenses of his or her office within the appropriation therefor, or from other money made available to him or her for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

3. The Chief, subject to the direction and control of the Director, shall carry out the program for emergency management in this State. The Chief shall coordinate the activities of all organizations for emergency management within the State, maintain liaison with and cooperate with agencies and organizations of other states and of the Federal Government for emergency management and carry out such additional duties as may be prescribed by the Director.

4. The Chief shall assist in the development of comprehensive, coordinated plans for emergency management by adopting an integrated process, using the partnership of governmental entities, business and industry, volunteer organizations and other interested persons, for the mitigation of, preparation for, response to and recovery from emergencies or disasters. In adopting this process, the Chief shall:

(a) Except as otherwise provided in NRS 232.3532, develop written plans for the mitigation of, preparation for, response to and recovery from emergencies and disasters. The plans developed by the Chief pursuant to this paragraph must include the information prescribed in NRS 414.041 to 414.044, inclusive.

(b) Conduct activities designed to:

(1) Eliminate or reduce the probability that an emergency will occur or to reduce the effects of unavoidable disasters;

(2) Prepare state and local governmental agencies, private organizations and other persons to be capable of responding appropriately if an emergency or disaster occurs by fostering the adoption of plans for emergency operations, conducting exercises to test those plans, training necessary personnel and acquiring necessary resources;

(3) Test periodically plans for emergency operations to ensure that the activities of state and local governmental agencies, private organizations and other persons are coordinated;

(4) Provide assistance to victims, prevent further injury or damage to persons or property and increase the effectiveness of recovery operations; and

(5) Restore the operation of vital community life-support systems and return persons and property affected by an emergency or disaster to a condition that is comparable to or better than what existed before the emergency or disaster occurred.

5. In addition to any other requirement concerning the program of emergency management in this State, the Chief shall:

(a) Maintain an inventory of any state or local services, equipment, supplies, personnel and other resources related to participation in the Nevada Intrastate Mutual Aid System established pursuant to NRS 414A.100;

(b) Coordinate the provision of resources and equipment within this State in response to requests for mutual aid pursuant to NRS 414.075 or chapter 414A of NRS;

(c) Coordinate with state agencies, local governments, Indian tribes or nations and special districts to use the personnel and equipment of those state agencies, local governments, Indian tribes or nations and special districts as agents of the State during a response to a request for mutual aid pursuant to NRS 414.075 or 414A.130; and

(d) Provide notice:

(1) On or before February 15 of each year to the governing body of each political subdivision of whether the political subdivision has complied with the requirements of NRS 239C.250;

(2) On or before February 15 of each year to the Chair of the Public Utilities Commission of Nevada of whether each utility that is not a governmental utility and each provider of new electric resources has complied with the requirements of NRS 239C.270;

(3) On or before February 15 of each year to the Governor of whether each governmental utility described in subsection 1 of NRS 239C.050 and each

provider of new electric resources has complied with the requirements of NRS 239C.270;

(4) On or before February 15 of each year to the governing body of each governmental utility described in subsection 2 of NRS 239C.050 and each provider of new electric resources of whether each such governmental utility has complied with the requirements of NRS 239C.270;

(5) On or before August 15 of each year to the Superintendent of Public Instruction of whether each board of trustees of a school district, governing body of a charter school or governing body of a private school has complied with the requirements of NRS 388.243 or 394.1687, as applicable; and

(6) On or before November 15 of each year to the Chair of the Nevada Gaming Control Board of whether each resort hotel has complied with the requirements of NRS 463.790.

6. The Division shall:

(a) Perform the duties required pursuant to chapter 415A of NRS;

(b) Perform the duties required pursuant to NRS 353.2753 at the request of a state agency or local government;

(c) Adopt regulations setting forth the manner in which federal funds received by the Division to finance projects related to emergency management and homeland security are allocated, except with respect to any funds committed by specific statute to the regulatory authority of another person or agency, including, without limitation, funds accepted by the State Emergency Response Commission pursuant to NRS 459.740; and

(d) Submit a written report to the Nevada Commission on Homeland Security within 60 days of making a grant of money to a state agency, political subdivision or tribal government to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to and recovery from acts of terrorism that includes, without limitation:

(1) The total amount of money that the state agency, political subdivision or tribal government has been approved to receive for the project or program;

(2) A description of the project or program; and

(3) An explanation of how the money may be used by the state agency, political subdivision or tribal government.

7. The Division shall develop a written guide for the preparation and maintenance of an emergency response plan to assist a person or governmental entity that is required to file a plan pursuant to NRS 239C.250, 239C.270, 388.243, 394.1687 or 463.790. The Division shall review the guide on an annual basis and revise the guide if necessary. On or before January 15 of each year, the Division shall ~~[provide]~~ *post* the guide ~~[to:~~

~~(a) Each political subdivision required to adopt a response plan pursuant to NRS 239C.250;~~

~~(b) Each utility and each provider of new electric resources required to prepare and maintain an emergency response plan pursuant to NRS 239C.270;~~

~~(c) Each development committee required to develop a plan to be used in responding to a crisis, emergency or suicide by:~~

~~(1) A public school or charter school pursuant to NRS 388.243; or~~

~~(2) A private school pursuant to NRS 394.1687; and~~

~~(d) Each resort hotel required to adopt an emergency response plan pursuant to NRS 463.790.]~~ *on a publicly accessible Internet website maintained by the Division.*

*8. The Division shall provide a copy of the written guide developed pursuant to subsection 7 to a person or governmental entity that is required to file a plan pursuant to NRS 239C.250, 239C.270, 388.243, 394.1687 or 463.790 upon the request of such a person or entity.*

*Sec. 1.5.* NRS 239C.110 is hereby amended to read as follows:

239C.110 1. "Utility" means any public or private entity that:

(a) Provides water service, *wastewater service,* electric service or natural gas service to 500 or more service locations; or

(b) Operates any pipeline that is necessary to provide such service.

2. The term includes, without limitation:

(a) A governmental utility.

(b) A public utility that is regulated by the Public Utilities Commission of Nevada pursuant to chapter 704 of NRS.

(c) A rural electric cooperative established pursuant to chapter 81 of NRS.

(d) 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.

(e) A community water system that is subject to the requirements of 42 U.S.C. § 300i-2.

Sec. 2. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility and each provider of new electric resources shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility or provider; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility or provider.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Each provider of new electric resources shall:

(a) As soon as practicable but not later than December 31, 2019, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is

completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

4. *On or before June 30 of each year, the Public Utilities Commission of Nevada, the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of Energy shall coordinate with the Division to compile a list of each utility and provider of new electric resources required to submit a vulnerability assessment and an emergency response plan pursuant to subsection 2 or 3.*

*5.* Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility or provider of new electric resources and any other information concerning a utility or provider that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

~~[5.]~~ *6.* Except as otherwise provided in NRS 239C.210, a person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility or provider of new electric resources, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

~~[6.]~~ *7.* If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

~~[7.]~~ *8.* As used in this section, "provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

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

Senator Dondero Loop moved the adoption of the amendment.

Remarks by Senator Dondero Loop.

Amendment No. 2 makes the following change to Senate Bill No. 14. It adds wastewater service as a utility required to submit a vulnerability assessment and an emergency response plan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 32.

Bill read second time and ordered to third reading.

Senate Bill No. 38.

Bill read second time.

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

Amendment No. 14.

SUMMARY—Establishes provisions governing the retention of pro bono legal assistance by the Office of the Attorney General. (BDR 18-409)

AN ACT relating to legal services; establishing certain provisions applicable to pro bono contracts for legal services entered into by the Attorney General or any other officer, agency or employee in the Executive Department of the State Government; requiring the Attorney General to prepare and submit an annual report concerning such contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides that the Attorney General and his or her deputies are the legal advisers on matters arising in the Executive Department of the State Government and generally prohibits persons in the Executive Department from employing other counsel to represent the State or any agency in the Executive Department. (NRS 228.110) However, existing law also establishes a process to authorize the Attorney General or any other officer, agency or employee in the Executive Department to enter into a contingent fee contract for legal services pursuant to which an attorney or law firm engaged in the private practice of law may provide legal services to the State of Nevada or an officer, agency or employee in the Executive Department. (NRS 228.111-228.1118) Section 6 of this bill additionally authorizes the Attorney General or any other officer, agency or employee in the Executive Department to enter into a pro bono contract for legal services pursuant to which an attorney or law firm engaged in the private practice of law may provide legal services to the State of Nevada or an officer, agency or employee in the Executive Department on a pro bono basis if the Attorney General determines that the provision of such legal services is necessary.

Section 7 of this bill requires the Attorney General to retain final authority over the course and conduct of the matter that is the subject of a pro bono contract, and section 8 of this bill requires the Attorney General to prescribe a form of addendum to a pro bono contract that sets forth the specific rights and obligations of the parties relating to the matter that is the subject of the contract. Section 9 of this bill requires any attorney or law firm retained pursuant to a pro bono contract to prepare and maintain contemporaneous records reflecting the work performed on the matter and provides that such records , other than those protected as legally privileged, are public records. Section 10 of this bill requires the Attorney General to post on his or her Internet website a copy of any fully executed pro bono contract . ~~[and section]~~

Section 10.5 of this bill prohibits any attorney or law firm retained pursuant to a pro bono contract from entering into certain other contracts with the Attorney General for the provision of legal services for a period of 1 year after the date on which the pro bono contract or any extension or renewal thereof expires or is terminated. Section 11 of this bill requires the Attorney General to prepare and submit an annual report to the Director of the Legislative Counsel Bureau that sets forth certain information about pro bono contracts in effect during the period covered by the report.

Sections 12-14 of this bill make conforming changes to indicate the appropriate placement of sections 2-11 of this bill in the Nevada Revised Statutes.

Section 15 of this bill exempts legal services provided pursuant to a pro bono contract from the procedures otherwise applicable to state agencies for the acceptance of gifts or grants of property or services. (NRS 353.335)

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. As used in sections 2 to 11, 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. "Matter" means an action or other proceeding involving one or more claims asserted by one or more plaintiffs and presenting common questions of law or fact.

Sec. 4. "Pro bono contract" or "contract" means a contract for legal services entered into by or at the request of the Attorney General, pursuant to which legal services are provided on a pro bono basis by an attorney or law firm engaged in the private practice of law to the State of Nevada or any officer, agency or employee in the Executive Department of the State Government.

Sec. 5. "Retained attorney or law firm" means an attorney or law firm that is a party to a pro bono contract.

Sec. 6. The Attorney General or any other officer, agency or employee in the Executive Department of the State Government may enter into a pro bono contract regarding any matter if the Attorney General determines that the provision of pro bono legal services by an attorney or law firm engaged in the private practice of law is necessary.

Sec. 7. The following conditions apply to a pro bono contract during the term of the contract and any renewal or extension of the contract:

1. The Attorney General must retain final authority over the course and conduct of the matter that is the subject of the pro bono contract, including, without limitation:

(a) The authority to override any decision made by the retained attorney or law firm; and

(b) The sole authority to agree to any settlement or voluntary dismissal of the matter.

2. Subject to the authority of the Attorney General, a deputy of the Attorney General must have supervisory authority over the conduct of the matter that is the subject of the pro bono contract. The deputy shall attend any settlement conference or mediation conducted in the matter.

3. The pro bono contract must not limit the right of any attorney for an opposing party in the matter that is the subject of the contract to communicate directly with the Attorney General or the deputy of the Attorney General described in subsection 2.

Sec. 8. The Attorney General shall prescribe a form of addendum to a pro bono contract that must be used for every such contract. The addendum must set forth the specific rights and obligations of the parties relating to the matter that is the subject of the contract, including, without limitation, the requirements of sections 7 , ~~[and]~~ 9 and 10.5 of this act.

Sec. 9. 1. A retained attorney or law firm shall, from the beginning of the term of the pro bono contract until a date not less than 4 years after the date on which the contract expires or is terminated, prepare and maintain contemporaneous records reflecting the work performed on the matter by the retained attorney or law firm, including, without limitation, any work performed by a paralegal. The records must specifically describe the work performed, identify the person who performed the work and set forth the time spent in connection with the work, in increments of not more than one-tenth of an hour.

2. ~~[The]~~ Except as otherwise provided in subsection 3, the records described in subsection 1 are public records and must be open for inspection pursuant to NRS 239.010.

3. The provisions of subsection 2 must not be construed to authorize or require the disclosure of any materials that are otherwise protected as legally privileged.

Sec. 10. Not later than 5 business days after a pro bono contract is signed by all the parties to the contract, the Attorney General shall cause a fully executed copy of the contract to be posted on the Internet website of the Attorney General. The document must be posted on the Internet website at all times during the term of the contract and any extension or renewal of the contract.

Sec. 10.5. A retained attorney or law firm is prohibited from entering into any contract with the Attorney General for the provision of legal services pursuant to NRS 41.03435 or 228.111 to 228.1118, inclusive, and sections 2 to 11, inclusive, of this act, for a period of 1 year after the date on which the pro bono contract or any extension or renewal of the pro bono contract expires or is terminated.

Sec. 11. 1. On or before February 1 of each year, the Attorney General shall prepare and submit a report to the Director of the Legislative Counsel Bureau, for transmittal to the Majority Leader of the Senate and the Speaker

of the Assembly, describing the use of pro bono contracts by the Attorney General during the preceding calendar year.

2. The report required by subsection 1 must identify each pro bono contract in effect during the period covered by the report and, for each such contract, set forth:

(a) The name and address of the retained attorney or law firm;

(b) The nature and present status of the matter that is the subject of the contract;

(c) The name of each party to the matter;

(d) The amount of any recovery obtained in the matter; and

(e) The amount of any costs and expenses paid in the prosecution of the matter for which no recovery was obtained.

Sec. 12. NRS 228.110 is hereby amended to read as follows:

228.110 1. Except as otherwise provided in NRS 228.111 to 228.1118, inclusive, and sections 2 to 11, inclusive, of this act or by specific statute:

(a) The Attorney General and the duly appointed deputies of the Attorney General shall be the legal advisers on all state matters arising in the Executive Department of the State Government.

(b) No officer, commissioner or appointee of the Executive Department of the Government of the State of Nevada shall employ any attorney at law or counselor at law to represent the State of Nevada within the State, or to be compensated by state funds, directly or indirectly, as an attorney acting within the State for the State of Nevada or any agency in the Executive Department thereof unless the Attorney General and the deputies of the Attorney General are disqualified to act in such matter.

2. All claims for legal services rendered in violation of this section shall be void.

Sec. 13. NRS 228.140 is hereby amended to read as follows:

228.140 1. Except as otherwise provided in NRS 228.111 to 228.1118, inclusive, and sections 2 to 11, inclusive, of this act, the Attorney General shall attend each of the terms of the Supreme Court, and there prosecute or defend, as the case may be, on the part of the State:

(a) All causes to which the State may be a party;

(b) All causes to which any officer of the State, in his or her official capacity, may be a party;

(c) All causes to which any county may be a party, other than those in which the interest of the county may be adverse to the State, or any officer of the State, acting in his or her official capacity, and

➥ after judgment obtained in any such cause, the Attorney General shall direct such proceedings, and sue out such process as may be required to carry the same into execution.

2. The Attorney General shall:

(a) Account for and pay over to the proper officer, without delay, all moneys which may come into his or her hands belonging to the State or any county.

(b) Assist in all impeachments which may be tried before the Senate.

Sec. 14. NRS 228.170 is hereby amended to read as follows:

228.170 1. Except as otherwise provided in NRS 228.111 to 228.1118, inclusive, and sections 2 to 11, inclusive, of this act, whenever the Governor directs or when, in the opinion of the Attorney General, to protect and secure the interest of the State it is necessary that a suit be commenced or defended in any federal or state court, the Attorney General shall commence the action or make the defense.

2. The Attorney General may investigate and prosecute any crime committed by a person:

(a) Confined in or committed to an institution or facility of the Department of Corrections.

(b) Acting in concert with, whether as a principal or accessory, any person confined in or committed to an institution or facility of the Department of Corrections.

(c) In violation of chapter 212 of NRS, if the crime involves:

(1) An institution or facility of the Department of Corrections; or

(2) A person confined in or committed to such an institution or facility.

Sec. 15. NRS 353.335 is hereby amended to read as follows:

353.335 1. Except as otherwise provided in subsections 5 and 6, a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2.

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his or her reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), the Governor may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to

its Secretary within which to consider acceptance. Any proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to the Secretary pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

(a) The need for the facility or service to be provided or improved;

(b) Any present or future commitment required of the State;

(c) The extent of the program proposed; and

(d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

(a) Gifts, including grants from nongovernmental sources, not exceeding $20,000 each in value; and

(b) Governmental grants not exceeding $150,000 each in value,

➥ if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Office of Finance, the specific approval of the Chief.

6. This section does not apply to:

(a) The Nevada System of Higher Education;

(b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395 or 435.490; ~~[or]~~

(c) Legal services provided on a pro bono basis by an attorney or law firm engaged in the private practice of law to the State of Nevada or any officer, agency or employee in the Executive Department of the State Government pursuant to a contract for legal services entered into by or at the request of the Attorney General in accordance with sections 2 to 11, inclusive of this act; or

(d) Artifacts donated to the Department of Tourism and Cultural Affairs.

Sec. 16. 1. The amendatory provisions of this act apply only to a pro bono contract entered into on or after October 1, 2021.

2. As used in this section, "pro bono contract" has the meaning ascribed to it in section 4 of this act.

Sec. 17. 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.

Senator Dondero Loop moved the adoption of the amendment.

Remarks by Senators Dondero Loop, Pickard and Ohrenschall.

SENATOR DONDERO LOOP:

Amendment No. 14 makes the following changes to Senate Bill No. 38. It clarifies that the bill does not intend to require disclosure of otherwise legally privileged material. It provides that any law firm or attorney offering *pro bono* legal services pursuant to the bill is deemed ineligible for

outside counsel contracts with the Office of the Attorney General for a period of one year from the end date of the *pro bono* contract.

SENATOR PICKARD:

Why are authorizing *pro bono* legal services for the largest law firm in the State, and why do we need a prohibition from entering into any other contracts if they thought that was appropriate. What is the rationale for precluding the interaction between the *pro bono* law firm and the Attorney General's Office? What is the legal rationale for that?

SENATOR OHRENSCHALL:

At the hearings, I recall that a representative from the Attorney General's office testified that when they enter into these relationships with *pro bono* attorneys, there is certain confidential information and concerns about that. They desire that there is no possible appearance of an impropriety by seeking some sort of outside employment that might be in the same vein as something they were helping on in terms of their *pro bono* work.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 141.

Bill read second time.

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

Amendment No. 47.

SUMMARY—Revises provisions relating to public works. (BDR ~~[S-44)]~~ 28-44)

AN ACT relating to public works; revising provisions relating to the scope of horizontal construction and vertical construction for certain purposes; removing the prospective expiration of provisions relating to construction managers at risk; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, public bodies are authorized to construct public works under certain circumstances through a method by which a construction manager at risk provides preconstruction services on the public work and, in some cases, construction services on the public work with a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for certain costs. (NRS 338.1685-338.16995) Existing law eliminates the authority for public bodies to enter into contracts with construction managers at risk effective June 30, 2021. ~~[This]~~ Sections 1.5-4 of this bill ~~[removes]~~ remove the prospective expiration of this authority, thereby making the authorization to enter into contracts with construction managers at risk permanent.

Existing law identifies certain work on public works as "horizontal construction" and "vertical construction" for certain purposes. (NRS 338.010, 338.01165, 338.16985) Section 1 of this bill revises the type of work that is included in the scope of those types of construction to specifically include the alteration, repair, renovation, demolition and remodeling, and any incidental work, necessary to complete a public work.

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

*Section 1.* NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

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

2. "Bona fide fringe benefit" means a benefit in the form of a contribution that is made not less frequently than monthly to an independent third party pursuant to a fund, plan or program:

(a) Which is established for the sole and exclusive benefit of a worker and his or her family and dependents; and

(b) For which none of the assets will revert to, or otherwise be credited to, any contributing employer or sponsor of the fund, plan or program.

➥ The term includes, without limitation, benefits for a worker that are determined pursuant to a collective bargaining agreement and included in the determination of the prevailing wage by the Labor Commissioner pursuant to NRS 338.030.

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

4. "Contractor" means:

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

(b) A design-build team.

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

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

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

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

(b) For a public work that consists of:

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

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

8. "Design professional" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

13. "Horizontal construction" means ~~[the]~~ *any* construction ~~[of any fixed]~~ *, alteration, repair, renovation, demolition or remodeling necessary to complete a public* work, including , *without limitation*, any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and *any other* work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.

14. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 318, 318A, 379, 474, 538, 541, 543 and 555 of NRS,

NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

15. "Offense" means:

(a) Failing to:

(1) Pay the prevailing wage required pursuant to this chapter;

(2) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(3) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(4) Comply with subsection 5 or 6 of NRS 338.070.

(b) Discharging an obligation to pay wages in a manner that violates the provisions of NRS 338.035.

16. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

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

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

18. "Public work" means any project for the new construction, repair or reconstruction of a project financed in whole or in part from public money for:

(a) Public buildings;

(b) Jails and prisons;

(c) Public roads;

(d) Public highways;

(e) Public streets and alleys;

(f) Public utilities;

(g) Publicly owned water mains and sewers;

(h) Public parks and playgrounds;

(i) Public convention facilities which are financed at least in part with public money; and

(j) All other publicly owned works and property.

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

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

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

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

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

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

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

(b) A subcontractor and another subcontractor or supplier,

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

22. "Subcontractor" means a person who:

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

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

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

24. "Vertical construction" means ~~[the]~~ *any* construction , *alteration, repair, renovation, demolition* or remodeling ~~[of]~~ *necessary to complete a public work for* any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any *other work or* improvement appurtenant thereto.

25. "Wages" means:

(a) The basic hourly rate of pay; and

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

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

~~[Section 1.]~~ *Sec. 1.5.* Section 15 of chapter 487, Statutes of Nevada 2013, as amended by chapter 562, Statutes of Nevada 2017, at page 4035, is hereby amended to read as follows:

Sec. 15. ~~[1.]~~ This section and sections 1, 2, 3, 4, 5, 6, 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become effective on July 1, 2013.

~~[2. Section 1 of this act expires by limitation on June 30, 2021.~~

~~3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of this act become effective on July 1, 2021.]~~

Sec. 2. Section 9 of chapter 123, Statutes of Nevada 2015, as amended by chapter 562, Statutes of Nevada 2017, at page 4035, is hereby amended to read as follows:

Sec. 9. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. Sections 6 and 7.5 of this act expire by limitation on June 30, 2021.]~~

Sec. 3. Section 7 of chapter 562, Statutes of Nevada 2017, at page 4035, is hereby amended to read as follows:

Sec. 7. 1. This section and sections 5 and 6 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, of this act become effective on July 1, 2017.

~~[3. Sections 1 to 3, inclusive, of this act expire by limitation on June 30, 2021.]~~

Sec. 4. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of chapter 487, Statutes of Nevada 2013, at pages 2961, 2964, 2966, 2967, 2968, 2972, 2983, 2984 and 2986, respectively, are hereby repealed.

Sec. 5. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

Section 2.3 of chapter 487, Statutes of Nevada 2013:

Sec. 2.3. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

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

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

3. "Contractor" means:

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

(b) A design-build team.

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

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

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

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

(b) For a public work that consists of:

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

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

7. "Design professional" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.~~

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

~~[14.]~~ *13.* "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~[15.]~~ *14.* "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

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

~~[16.]~~ *15.* "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~[17.]~~ *16.* "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

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

~~[18.]~~ *17.* "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~[19.]~~ *18.* "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

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

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

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

~~[20.]~~ *19.* "Subcontract" means a written contract entered into between:

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

(b) A subcontractor and another subcontractor or supplier,

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

~~[21.]~~ *20.* "Subcontractor" means a person who:

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

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

~~[22.]~~ *21.* "Supplier" means a person who provides materials, equipment or supplies for a construction project.

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

~~24.]~~ *22.* "Wages" means:

(a) The basic hourly rate of pay; and

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

~~[25.]~~ *23.* "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Section 2.5 of chapter 487, Statutes of Nevada 2013:

Sec. 2.5. NRS 338.0117 is hereby amended to read as follows:

338.0117 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, ~~[subsection 3 of NRS 338.1693,]~~ subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be located in this State unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages only as provided in subsections 5 and 6.

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must

set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, liquidated damages as described in subsection 6 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:

(a) If a party to the contract causes a material breach of the contract between the contractor, applicant or design-build team and the public body as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, the party is liable to the public body for liquidated damages in the amount of 1 percent of the cost of the largest contract to which he or she is a party;

(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that causes the material breach; and

(c) No other party to the contract is liable to the public body for liquidated damages.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

Section 3.5 of chapter 487, Statutes of Nevada 2013:

Sec. 3.5. NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds $100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~[17]~~ *16* of NRS 338.010.

Section 4.5 of chapter 487, Statutes of Nevada 2013:

Sec. 4.5. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds $100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~[17]~~ *16* of NRS 338.010.

Section 5.3 of chapter 487, Statutes of Nevada 2013:

Sec. 5.3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive; *or*

(c) ~~[NRS 338.169 to 338.16995, inclusive, and section 1 of this act; or (d)]~~ NRS 338.1711 to 338.173, inclusive.

2. Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864,

338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive.

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that provision of this chapter does not apply to the Department of Transportation or the contract.

Section 5.5 of chapter 487, Statutes of Nevada 2013:

Sec. 5.5. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 ~~[or 338.16991]~~ or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the Division or the local government, the State Public Works Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

(a) Administer oaths;

(b) Take testimony;

(c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;

(d) Require the production of related books, papers and documents; and

(e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Section 5.7 of chapter 487, Statutes of Nevada 2013:

Sec. 5.7. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; *or*

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435 . ~~[; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.]~~

Section 6.5 of chapter 487, Statutes of Nevada 2013:

Sec. 6.5. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; *or*

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435 . ~~[; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.]~~

Section 13.5 of chapter 487, Statutes of Nevada 2013:

Sec. 13.5. 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, 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.

Section 14.1 of chapter 487, Statutes of Nevada 2013:

Sec. 14.1. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

(1) The length of time necessary to commence the project.

(2) The number of workers estimated to be employed on the project.

(3) The effectiveness of the project in reducing energy consumption.

(4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~[13]~~ *12* of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

(1) Biomass;

(2) Fuel cells;
(3) Geothermal energy;
(4) Solar energy;
(5) Waterpower; and
(6) Wind.

➥ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Section 14.7 of chapter 487, Statutes of Nevada 2013:

Sec. 14.7. NRS 338.169, 338.1691, 338.1692, 338.1693, 338.16935, 338.1696, 338.1697, 338.1698, 338.16985, 338.16991 and 338.16995 are hereby repealed.

Senator Brooks moved the adoption of the amendment.

Remarks by Senator Brooks.

Amendment No. 47 makes several changes to Senate Bill No. 141. The amendment amends the bill to clarify the types of projects that are considered as horizontal construction. It amends the bill to clarify the types of projects that are considered as vertical construction.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 161.

Bill read second time and ordered to third reading.

Senate Bill No. 190.

Bill read second time and ordered to third reading.

Senate Bill No. 248.

Bill read second time and ordered to third reading.

Senate Bill No. 258.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 47.

Bill read third time.

Remarks by Senators Kieckhefer and Neal.

SENATOR KIECKHEFER:

Senate Bill No. 47 extends some of the provisions we passed during the Special Session over the summer to allow the State Treasurer to recommend, under certain circumstances, the issuance of up to $150 million in interim debentures to help cover cash flow if the State is having a projected General Fund balance insufficient to meeting its operating needs. In this process, the State Treasurer would have to make a recommendation to the Interim Finance Committee, which would need affirmative approval before forwarding the recommendation to the Board of Finance for its approval and, ultimately, the issuance of that short-term interim debt.

SENATOR NEAL:

I oppose Senate Bill No. 47. I support the amendment of my colleague from Senate District 16 and appreciate the changes he made. They make the bill better, but I want to put some of my objections on the record. I have reflected on this policy. My longevity in this building has given me foresight on power and power shifts. I read the *Nevada Constitution* and reflected on the duties and power of the Treasurer. I also reflected on the powers of the Legislature. The power given in this bill is great. It adopts language from Senate Bill 4 of the 31st Special Session. It is not just a tool in the toolbox, and it is not a power you ask to be returned to the Legislature. It is not a power that should be delegated away. It is a power that should remain within the entire Legislative Body who, in its wisdom, should determine when to enact this power. It is a power given under Article 9, Section 3, of the *Nevada Constitution*.

I do not take this vote lightly. Not every emergency is the same, nor will it require the same tools. I will not give away power I believe rests with the entire Legislature and that should rest with the decision-making Body of 63 elected representatives. The power to pay a debt and the manner in which it is done is great. It is a legislative power.

My original objection to the enrolled bill was that it gave one person the power to decide whether we were in an emergency. This has been taken out. However, S.B. 4 of the 31st Session, in its written form, which Senate Bill No. 47 adopted and took in as a whole, has provisions which give me deep pause for that power to be used in the Interim. Section 5, subsections 4(a) and (b) state: "Any general obligation interim debentures or special obligation interim debentures issued pursuant to the section, and any bond administrative expenses, may be additional secured by pledge revenue for the benefit of the owners of the interim debentures and the obligees under an agreement subscribed in the subsection 3, by pledge of, security interest in and first lien on all or a portion of the following, if applicable: (a) unrestricted revenues, including tax revenues payable to the State General Fund to be used for the general operations for the State; or (b) Money related to the interim debentures held on the in any other fund or account under any instrument or agreement pertaining to the interim debentures, including, without limitations, reserves therefor and income on such money."

That power is so great. This was meant to be limited to an emergency. It was meant to be limited and temporary. It is not a power, even with the Interim Finance Committee reviewing it, that should rest with the State Legislature. It belongs in this Body, with its wisdom. It is for us to determine how to use those debts and the manner in which to do so. I looked at the *Nevada Constitution*, the limits on power, how it was derived and how we got the power as a Legislature. I determined it is not appropriate for us to delegate away power that belongs to us, not a great power like this that we want to keep. I do not see us walking back and asking for it to be returned to us. That is why I object and why I am opposed to Senate Bill No. 47, which rolls in S.B. 4 from the 31st Special Session.

Roll call on Senate Bill No. 47:

YEAS—14.

NAYS—Buck, Hammond, Hansen, Neal, Pickard, Seevers Gansert, Settelmeyer—7.

Senate Bill No. 47 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 74.

Bill read third time.

Remarks by Senator Neal.

Senate Bill No. 74 eliminates the requirement for the Department of Taxation to use the population totals issued by the Bureau of the Census of the United States Department of Commerce for the purposes of distributing certain taxes and making certain determinations based on population in the case of a conflict between the population totals certified by the Governor and the population totals issued by the Census Bureau.

The bill also eliminates obsolete references to the terms "enterprise district," "local government" and "special district" as they are not referenced or used for the administration of the provisions of NRS chapter 377.

Roll call on Senate Bill No. 74:
YEAS—21.
NAYS—None.

Senate Bill No. 74 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 128.

Bill read third time.

Remarks by Senators Denis and Kieckhefer.

SENATOR DENIS:

Senate Bill No. 128 requires the State Treasurer to contract with one or more qualified independent consultants to conduct a study concerning the effectiveness of publicly funded scholarship and grant programs in Nevada. The study must include a comprehensive review of student outcomes for scholarship and grant recipients as well as a review of the way such programs are administered. Moreover, the study must include an evaluation of the financial viability of these programs and the projected future costs of administration.

A report of the findings of the study must be submitted to the Legislative Committee on Education, which shall review the report and consult with persons and entities charged with administering publicly-funded scholarship and grant programs. The recommendations in the report must be considered by the Committee when requesting the drafting of legislative measures. Senate Bill No. 128 provides that the costs of carrying out the study must be paid from the Endowment Account created by the State Treasurer under NRS 353B.350.

SENATOR KIECKHEFER:

I support Senate Bill No. 128. It is important to note that walking into the Legislative Session, the Millennium Scholarship, which is our single largest scholarship program in the State, is $50 million underwater. We need to take a look at how we fund these scholarships long term to support our students.

Roll call on Senate Bill No. 128:
YEAS—21.
NAYS—None.

Senate Bill No. 128 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 204.

Bill read third time.

Remarks by Senators Denis and Pickard.

SENATOR DENIS:

Senate Bill No. 204 authorizes the Department of Motor Vehicles (DMV) to issue cards, certificates and licenses in electronic form provided a physical version of the document has been issued. Subject to statutory exceptions, a person must carry the physical version of the document in the motor vehicle. The bill authorizes DMV to establish electronic branch offices to accept forms and other documentation and to conduct certain transactions electronically. The DMV is

not permitted to conduct transactions electronically if State or federal law specifically requires a transaction to be in person or documents to be presented in their original form.

If you want to help reduce lines at the DMV, this bill will help allow us to do more things electronically with the DMV.

SENATOR PICKARD:

I hesitated in my concurrence with passing Senate Bill No. 204 out of Committee. I have since had conversations with DMV. My concerns were about proper authentication of documents and proving the identity of the person. Officials at DMV have told me that process has been thought through fairly well. They believe they are capable of properly authenticating people and making sure that the people they give the license or forms of identification to and their tags for their vehicles that they will be able to identify who the person is. We can feel comfortable they have done so. I hope that we can adopt the same kind of attitude toward other things, but right now, as to this bill, I am convinced we should pass it.

Roll call on Senate Bill No. 204:

YEAS—21.

NAYS—None.

Senate Bill No. 204 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 342.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 342 authorizes the Board of Regents to enter into an agreement to affiliate with a publicly or privately owned medical facility or related entity to further promote and enhance a medical-education or health-education program at a university. The bill further provides that such agreements are subject to policies established by the Board.

Roll call on Senate Bill No. 342:

YEAS—21.

NAYS—None.

Senate Bill No. 342 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Remarks by Senators Spearman, Kieckhefer, Harris, Seevers Gansert, Ratti, Hardy, Settelmeyer and Cannizzaro.

SENATOR SPEARMAN:

Nourishing food represents one of the four absolute necessities for life, taking its place beside clean air, drinkable water and suitable shelter; and Delivering with Dignity Reno-Sparks began as a pilot program with the important mission to create and distribute high-quality meals directly to the most vulnerable families and seniors in the Truckee Meadows area in response to the potentially dangerous conditions …

SENATOR KIECKHEFER:

… generated by the coronavirus pandemic and inability of many people to leave the safer and more comfortable surroundings of their own homes; and …

SENATOR HARRIS:

… this community partnership, developed with the cooperation of Lieutenant Governor Kate Marshall, the Reno Local Food Group, Moonridge Foundation, Copia and United Way of Northern Nevada and the Sierra, focuses on those people who struggle the most with poverty on a daily basis and are most at risk to contract the coronavirus when leaving their homes, according to the United States Centers for Disease Control and Prevention (CDC); and …

SENATOR SEEVERS GANSERT:

… these most threatened people include the elderly, those with underlying medical conditions, and their family members sharing the same household; and …

SENATOR RATTI:

… delivering with Dignity works with its nonprofit partners to identify potential recipients using a "Triple-Threat" criteria of: (1) at highest risk for coronavirus per CDC guidelines, (2) ineligible or not served by any community organization that provides food to homes, and (3) financially unable to meet their dietary needs without leaving their residence while lacking a reliable support system of friends or families to assist; and …

SENATOR HARDY:

… the concept of Delivering with Dignity was conceived in Las Vegas early in the pandemic of 2020, and later spread to Orange County, California, where a silver lining to the notable decrease in tourism in all three regions is the availability of underutilized professional kitchens to prepare quality and nutritious meals for vulnerable individuals and help ensure job security for culinary workers and local vendors economically and socially affected by the coronavirus disease; and …

SENATOR SETTELMEYER:

… thanks to the leadership of Lieutenant Governor Marshall and her allies in the fight against hunger, Delivering with Dignity Reno-Sparks has served over 66,028 meals and saved at least 9 jobs since the founding of the program on May 4, 2020, bringing grateful smiles to residents of northern Nevada. Lieutenant Governor Kate Marshall is recognized for her work in establishing and expanding the outreach of Delivering with Dignity Reno-Sparks.

SENATOR CANNIZZARO:

Nevadans congratulate Lieutenant Governor Marshall and Delivering with Dignity Reno-Sparks for their success.

SENATOR RATTI:

Very early in the pandemic, when we were under lockdown orders, I got a call from the Lieutenant Governor saying people need food; we need to help keep restaurants busy and keep people employed. She asked if I could help. I had just accepted a new job at the Health District, 20 days into a pandemic, so I was not sure I could. I referred her to other people who could. I think of that call that happened back in March 2020. I think of the persistence of our Lieutenant Governor and the amount of work she put in to pull together the right team to accomplish something extraordinary.

I wanted to make sure we recognized this work. I know many members of this Body stepped up to help their neighbors. There were food drives, food pantries and town halls that people did to make sure they helped. This effort, which resulted in many meals being served to many people who needed it, needed to be recognized. Restaurants, who had hope at the time they could stay open, had this little bit of extra work. Volunteers have been glowing about the ability to meet with a community member, friend or neighbor who was living in isolation, to give them a meal and have a few words with them during challenging times for our State. I know what Lieutenant Governor Marshall will say, this took a village and she did not do it all. I believe, however, that if she had not had the spark, drive and persistence she had, this would not have happened. Thank you for everything you did to make this happen.

SENATOR CANNIZZARO:

I want to thank my colleague from Reno for putting together this honor for someone who stepped up and went above and beyond during the last year. Not everyone is fortunate enough to have a wonderful Lieutenant Governor as the Presiding Officer of their Legislative Body. We are blessed to have you. Thank you not only for your service to this State but also for your care and dedication to the wellbeing of those who live in the communities around us. It takes someone special to give a little bit extra of themselves, especially in a time of crisis and need. That is definitely you, and we thank you for all of your hard work. We appreciate your being here to guide us in the Senate.

Senator Cannizzaro moved that the Senate adjourn until Wednesday, April 7, 2021, at 11:00 a.m.

Motion carried.

Senate adjourned at 12:47 p.m.

Approved: KATE MARSHALL
*President of the Senate*

Attest: CLAIRE J. CLIFT
*Secretary of the Senate*