THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 22, 2009

Assembly called to order at 10:45 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Isaiah 26:3-4:

Thou wilt keep him in perfect peace, whose mind is stayed on Thee, because he trusteth in Thee. Trust ye in the Lord forever, for in the Lord Jehovah is everlasting strength.

Let us pray:

Gracious Lord of Heaven and Earth, as this week comes to a close, we ask for Your perfect peace in overflowing abundance. Lord Jesus, as the long hours and short nights take their toll, may Your hand of strength and encouragement rest upon these who are here serving this great State of Nevada. Also, Lord, let us not forget why we celebrate and observe Memorial Day, as we pray for and remember all those who have served and are serving this blessed land of the United States of America. Keep them strong, in Your everlasting strength and of good courage, we pray. Our hope and our trust are steadfast in Thee. God, please bless America.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Conklin moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, VICE *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 21, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 22, Amendment No. 769; Assembly Bill No. 54, Amendment No. 660; Assembly Bill No. 80, Amendment No. 835; Assembly Bill No. 90, Amendment No. 651; Assembly Bill No. 135, Amendment No. 709; Assembly Bill No. 140, Amendment No. 771; Assembly Bill No. 141, Amendment No. 650; Assembly Bill No. 144,

Amendment No. 649; Assembly Bill No. 151, Amendment No. 775; Assembly Bill No. 202, Amendment No. 812; Assembly Bill No. 225, Amendment No. 849; Assembly Bill No. 249, Amendment No. 853; Assembly Bill No. 262, Amendments Nos. 601, 818; Assembly Bill No. 266, Amendment No. 697; Assembly Bill No. 387, Amendment No. 801; Assembly Bill No. 467, Amendment No. 838; Assembly Bill No. 483, Amendment No. 710; Assembly Bill No. 488, Amendment No. 859, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day adopted Assembly Concurrent Resolution No. 2.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bills Nos. 428, 430, 431.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 238, 246, 294, 401, 497, 534, 549, 552, 556, 557.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 358.

I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 675 to Senate Bill No. 160; Assembly Amendment No. 780 to Senate Bill No. 197.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendments Nos. 742, 881, to Senate Bill No. 218.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 804 to Senate Bill No. 305; Assembly Amendment No. 760 to Senate Bill No. 389.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 358.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 426.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 686.

AN ACT relating to the financing of local improvements; making various changes regarding certain types of financing using revenue pledged from sales and use taxes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the governing body of a municipality in a county whose population is less than 400,000 (currently counties other than Clark County) and which has created a local improvement district to pledge revenue from several sales and use taxes imposed in that district to finance certain projects of the municipality within the district. (NRS 271.650) **Section 1** of this bill excludes local school support taxes from any further pledges of such revenue.

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID), and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any other person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 3** of this bill requires the independent auditing of claims made under agreements to provide such financing and prohibits the use of such financing to pay various fees and costs. **Section 3** also prohibits the use of such financing for the relocation within a TID of a retailer from another location within ~~[the municipality]~~ **3 miles outside of the boundary of the TID** and excludes the use for such financing of the tax revenue from such a retailer. **Section 4** of this bill requires **certain** contractors ~~[who bid]~~ on funded projects to ~~[list]~~ **select** their subcontractors ~~[in those bids and prohibits the substitution of subcontractors without the approval of the municipality.]~~ **by competitive bidding. Section 5** of this bill requires annual reports ~~[by each municipality that creates]~~ **regarding projects within** a TID. **Sections 6 and ~~[8]~~ 9** of this bill exclude local school support taxes from any further pledges of revenue for the financing of projects within a TID. **Section 7 of this bill revises the prerequisites for the creation of a TID. Section ~~[9]~~ 10** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

~~[Existing law prohibits the creation of a tourism improvement district unless the governing body of the municipality determines that there will be a substantial increase in sales and use tax proceeds as a result of the project, and the Commission on Tourism determines that a preponderance of that increase will be attributable to out-of-state tourists. Section 7 of this bill requires the Commission to consider the results of an independent study before making its determination.]~~

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

Section 1. NRS 271.650 is hereby amended to read as follows:

271.650 1. Except as otherwise provided in this section, the governing body of a municipality in a county whose population is less than 400,000

may include in an assessment ordinance for a project the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(a) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of a sum equal to 0.75 percent of the amount of those proceeds; ~~[and]~~

(b) ~~[The]~~ ***If the ordinance is adopted before the effective date of this section, the*** amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[,]~~ ***and*** 374.190 ~~[and 377.030]~~ with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(c) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds.

2. If any property within the boundaries of an improvement district for which any money is pledged pursuant to this section is also included within the boundaries of any other improvement district for which any money is pledged pursuant to this section or any tourism improvement district for which any money is pledged pursuant to NRS 271A.070, the total amount of money pledged pursuant to this section and NRS 271A.070 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

3. The governing body of a municipality shall not include a pledge authorized by subsection 1 in an assessment ordinance for a project unless:

(a) The governing body determines that no retailers have maintained a fixed place of business in the improvement district at any time from the first day of the fiscal year in which the assessment ordinance is adopted until the date of the adoption of the ordinance.

(b) The governing body determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(1) As a result of the project:

(I) Retailers will locate their businesses as such in the improvement district; and

(II) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district; and

(2) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

(c) The Commission on Tourism determines, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to paragraph (b) will be attributable to transactions with tourists who are not residents of this State.

(d) The Governor determines that the project and the pledge of money authorized by subsection 1 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(1) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to NRS 271.670 by the school district in which the improvement district is located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and

(2) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the improvement district is located during the term of the pledge of money. The payments may be provided pursuant to agreements authorized by NRS 271.670 or from sources other than the owners of property within the improvement district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the pledge of money authorized by subsection 1.

(e) If any property within the boundaries of the improvement district is also included within the boundaries of any other improvement district for which any money has been pledged pursuant to this section or any tourism improvement district for which any money has been pledged pursuant to NRS 271A.070, all the governing bodies which created those districts have entered into an interlocal agreement providing for:

(1) The apportionment of any money pledged pursuant to this section and NRS 271A.070 with respect to such property; and

(2) The priority of the application of that money between:

(I) Bonds issued pursuant to this chapter; and

(II) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to this chapter to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

4. Any determination or approval made pursuant to subsection 3 is conclusive in the absence of fraud or gross abuse of discretion.

5. As used in this section, "retailer" has the meaning ascribed to it in NRS 374.060.

Sec. 2. Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***The governing body of a municipality:***

1. Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor **.** ~~*[, to obtain a determination of whether the claim is reasonable and appropriate.]*~~

2. Shall not provide any financing or reimbursement pursuant to NRS 271A.120 for:

(a) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(b) Any project that includes the relocation on or after July 1, 2009, to a district ~~*[within the municipality]*~~ ***of any retail facilities of a retailer from another location*** ***outside of and*** ***within*** ***3 miles of the boundary of*** ***the*** ~~*[municipality.]*~~ ***district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2009, relocates any of its retail facilities to a district*** ~~*[within the municipality]*~~ ***from another location*** ***outside of and*** ***within*** ***3 miles of the boundary of*** ***the*** ~~*[municipality.]*~~ ***district.***

Sec. 4. ***1. Except as otherwise provided in subsection 2,*** ~~*[:*~~

~~*(a) Each contractor who submits a bid on a contract shall:*~~

~~*(1) Include in the bid:*~~

~~*(I) A description of each portion of the contract that will be performed by the contractor;*~~

~~*(II) A list setting forth each subcontractor who will perform any portion of the contract; and*~~

~~*(III) A description of each portion of the contract that will be performed by each subcontractor included in the list required by sub-subparagraph (II); and*~~

~~*(2) Within 2 hours after submitting that bid, submit a copy thereof to the governing body of the municipality.*~~

~~*(b) A contractor whose bid is accepted shall not substitute a subcontractor for any subcontractor who is named in the bid, unless the substitution is approved by the governing body of the municipality or its designated representative. The substitution must be approved if the governing body or its designated representative determines that:*~~

~~*(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;*~~

~~*(2) The named subcontractor files for bankruptcy or becomes insolvent;*~~

~~*(3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time; or*~~

~~*(4) The named subcontractor is not qualified or properly licensed to perform that portion of the contract.*~~

~~*(c) If a contractor indicates pursuant to paragraph (a) that he will perform a portion of the work on the contract and thereafter requests to substitute a subcontractor to perform such work, the contractor shall provide to the governing body of the municipality a written explanation in the form required by the governing body which contains the reasons that:*~~

~~*(1) A subcontractor was not originally contemplated to be used on that portion of the contract; and*~~

~~*(2) The substitution is in the best interest of the municipality.]*~~ ***, a contractor who enters into a contract with an owner or lessee of any property included in the project shall:***

(a) Select each subcontractor who will perform any portion of the contract based on a process of competitive bidding approved by the governing body of the municipality;

(b) Ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS; and

(c) Submit to the governing body of the municipality a list containing the names of each subcontractor who will perform any portion of the contract.

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

(a) Any contract which is awarded by the municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

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

~~*(a) "Contract"]*~~ ***, "contract" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:***

~~*[(1)]*~~ ***(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or***

~~*[(2)]*~~ ***(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.***

~~*[*~~ ~~*(b) "General terms" means the terms and conditions of a contract that set the basic requirements for the contract and apply without regard to the particular trade or specialty of a subcontractor. The term does not include any provision that controls or relates to the specific portion of the contract that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.]*~~

Sec. 5. ***1. On or before March 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2009, shall prepare and submit to the Director of the Legislative Counsel Bureau for***

submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) ~~[A statement of the tax revenue generated by each project located in the district and of the percentage of that tax revenue collected from out-of-state customers.~~

~~(c)]~~ A projection of the tax revenue anticipated to be generated by each project located ~~[or expected to be located]~~ in the district.

~~[(d) An estimate of any displacement in tax revenue experienced as a result of the projects in the district by any retailers located within 3 miles outside of the boundaries of the district.~~

~~(e) An estimate of the]~~

(c) The number of jobs created, directly or indirectly, as a result of each project located ~~[or expected to be located]~~ in the district.

~~[(f)]~~ (d) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for education, police protection and fire protection.

2. The governing body of a municipality that creates a district before, on or after July 1, 2009, shall require one or more of the projects located in the district to report to the Department of Taxation, on or before February 1 of each year, such information as the governing body deems to be necessary to determine the percentage of the tax revenue collected by the project from out-of-state customers during the immediately preceding calendar year. The projects required to make such a report must be selected by the governing body in such a manner as to ensure that the projects selected collectively generate not less than 50 percent of the tax revenue from the district. On or before March 1 of each year, the Department shall provide to the Fiscal Analysis Division of the Legislative Counsel Bureau:

(a) A statement of the tax revenue generated by each project located in each district for the immediately preceding calendar year; and

(b) The information reported to the Department pursuant to this subsection for the immediately preceding calendar year.

3. Except as otherwise provided in:

(a) Subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.

(b) Subsection 2, this paragraph or another specific statute, any information obtained by the Fiscal Analysis Division pursuant to subsection 2 shall be deemed a work product that is confidential pursuant to NRS 218.625. The Fiscal Analysis Division may analyze the information and issue written reports based on that information, but shall not disclose any proprietary or confidential information obtained from the Department pursuant to subsection 2.

4. As used in this section, "tax revenue" means revenue from sales and use taxes.

Sec. 6. NRS 271A.070 is hereby amended to read as follows:

271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to 0.75 percent of the amount of those proceeds; ~~[and]~~

(2) ~~[The]~~ ***If the ordinance is adopted before the effective date of this section, the*** amount of the proceeds of the taxes imposed pursuant to NRS 374.110 ~~[,]~~ ***and*** 374.190 ~~[and 377.030]~~ with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds ~~[.]~~ ***; and***

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds.

2. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

3. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

4. The governing body of a municipality shall not, after October 1, 2009, create a tourism improvement district that includes within its boundaries any

property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS.

Sec. 7. NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➥ The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least 3 qualified independent consultants, each of whom must be located outside of this State.

4. ~~[The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:~~

~~(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and~~

~~(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.~~

~~➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.~~

~~5.]~~ If the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

~~[6.]~~ **5.** The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

~~[7.]~~ ***6.*** The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection ~~[6]~~ ***5*** will be attributable to transactions with tourists who are not residents of this State. ~~*[Before making that determination, the Commission must consider the results of a study conducted by an independent consultant selected by the Commission. The costs of this study must be paid by the municipality or a private entity.*~~

~~8.]~~ ***7.*** The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. ~~[Before making that determination, the Governor:~~

~~(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide him with an appropriate fiscal report; and~~

~~(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.~~

~~9.]~~ ***8.*** If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

Sec. 8. **NRS 271A.110 is hereby amended to read as follows:**

271A.110 1. The governing body of a municipality may, except as otherwise provided in subsection 2, enter into an agreement with one or more of the owners of any interest in property within a district, pursuant to which that owner would agree to make payments to the municipality or to another local government that provides services in the district, or to both, to defray, in whole or in part, the cost of local governmental services during the term of the use of any money pledged pursuant to NRS 271A.070. Such an agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which the municipality and owner agree.

2. The governing body of a municipality shall not enter into an agreement pursuant to subsection 1 unless **[**:

~~(a) The~~**]** ***the*** governing body has made a written finding pursuant to subsection 3 of NRS 271A.080 that the project and the use of any money pledged pursuant to NRS 271A.070 will not have a positive fiscal effect on the provision of local governmental services**.** ~~[, or~~

~~(b) The Governor requires a commitment from the municipality for the provision of specified payments to the school district in which the district is located during the term of the use of any money pledged pursuant to NRS 271A.070.]~~

~~[Sec. 8.]~~ ***Sec. 9.*** NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes ~~[may]~~ ***issued:***

(1) Before the effective date of this section, or issued to refund any such bonds or notes issued before the effective date of this section, may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(2) On or after the effective date of this section, except as otherwise provided in subparagraph (1), may be secured by a pledge of, and be payable from, any money pledged pursuant to subparagraphs (1) and (3) of paragraph (c) of subsection 1 of NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. ~~[Any]~~ ***If the agreement is made:***

(1) Before the effective date of this section, any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(2) On or after the effective date of this section, any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to subparagraphs (1) and (3) of paragraph (c) of subsection 1 of NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

➥ Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

➥ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

3. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property

taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

4. Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section ~~[,]~~ ***and section 4 of this act and*** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ ***A person who enters into*** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

➥ ~~*[to the same extent as if the contract or other agreement was awarded by the governing body of the municipality and the project constituted a public work,* regardless of whether the project is publicly or privately owned.]~~ ***shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction,***

improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.

4. The governing body of the municipality shall ensure that each contractor ~~*[who submits a bid on such a contract or other agreement complies with]*~~ ***to whom the provisions of section 4 of this act*** ~~*[.]*~~ ***apply complies with those provisions.***

~~**[Sec. 10.]**~~ ***Sec. 11.*** NRS 360.850 is hereby amended to read as follows:

360.850 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 in the manner provided pursuant to an agreement made pursuant to NRS 271.660:

(a) From the State General Fund, the amount of money pledged pursuant to the ordinance in accordance with paragraph (a) of subsection 1 of NRS 271.650 which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund, the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~paragraph~~]~~ ***paragraphs*** (b) ***and (c)*** of subsection 1 of NRS 271.650.

2. The governing body of a municipality that adopts an assessment ordinance in accordance with NRS 271.650 shall promptly remit to the State Controller any amount received pursuant to this section in excess of the amount required to carry out the provisions of NRS 271.4315 with regard to the project for which the assessment ordinance was adopted. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650 in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to the assessment ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money

pursuant to the assessment ordinance, for the fiscal year in which the State Controller receives the money.

3. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged pursuant to an assessment ordinance adopted in accordance with NRS 271.650.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 360.855 is hereby amended to read as follows:

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with ~~[~~subparagraph~~]~~ ***subparagraphs*** (2) ***and (3)*** of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged by an ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money

pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

3. The provisions of subsection 2 do not require a governing body to remit to the State Controller any money received pursuant to this section and expended for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to a tourism improvement district if that use of the money has been:

(a) Authorized by the governing body in the ordinance creating the district pursuant to NRS 271A.070, or in an amendment thereto; and

(b) Approved by the governing body, Commission on Tourism and Governor in the manner required to satisfy the requirements of subsections ~~[6, 7 and 8]~~ ***5, 6 and 7*** of NRS 271A.080,

➥ and ***, if applicable,*** after the provision of notice to and an opportunity to make comments by ~~[the board of trustees of the school district in which the tourism improvement district is located in accordance with subsection 4 of NRS 271A.080 and, if applicable, by]~~ the board of county commissioners of the county in which the tourism improvement district is located in accordance with subsection ~~[5]~~ ***4*** of NRS 271A.080.

4. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged by an ordinance adopted pursuant to NRS 271A.070.

Sec. 13. **NRS 372.750 is hereby amended to read as follows:**

372.750 1. Except as otherwise provided in this section ***, section 5 of this act*** or NRS 360.247, it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the

name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

Sec. 14. **NRS 374.755 is hereby amended to read as follows:**

374.755 1. Except as otherwise provided in this section ***, section 5 of this act*** or NRS 360.247, it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The

information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

~~[Sec. 12.]~~ ***Sec. 15.*** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 13.]~~ ***Sec. 16.*** 1. This section and sections 1, 6 ~~[, 7, 8, 10, 11 and 12]~~ **to 9, inclusive, 11, 12 and 15** of this act become effective upon passage and approval.

2. Sections 2 to 5, inclusive, ~~[and 9]~~ **10, 13 and 14** of this act become effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 433.
Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 422.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bill 422 and Senate Bill No. 433 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 422.
Bill read third time.
Remarks by Assemblywomen Smith and Gansert.
Roll call on Assembly Bill No. 422:
YEAS—39.
NAYS—Cobb, Gustavson, Settelmeyer—3.
Assembly Bill No. 422 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 119 and 354 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 433 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 433.
Bill read third time.
Remarks by Assemblymen Arberry, Parnell, Gansert, Carpenter, Stewart, and Madam Speaker.
Potential conflict of interest declared by Assemblyman Denis.
Roll call on Senate Bill No. 433:
YEAS—37.
NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.
Senate Bill No. 433 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 22, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Senate Bills Nos. 428, 430 and 431.

MARK STEVENS
Fiscal Analysis Division

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 428.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 430.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 431.

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 433 be immediately transmitted to the Senate.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 80.

The following Senate amendment was read:

Amendment No. 835.

AN ACT relating to excavations; setting forth the duties of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main; revising provisions relating to the operators of subsurface installations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill sets forth the duties and rights of an operator of a sewer main with respect to a sewer service lateral connected to that sewer main when he is notified of a proposed excavation or demolition by an association for operators. **Section 4** also authorizes an operator of a sewer main, which may be a local government, to require the person responsible for the excavation or demolition to reimburse any costs incurred by the operator to locate and identify the connection. **Section 15.5 of this bill provides that**

on and after January 1, 2011, certain operators are prohibited from obtaining reimbursement of such costs.

Section 6 of this bill requires the operator of a sewer main to maintain certain information relating to the locations of connections of sewer service laterals to the sewer main.

Section 7 of this bill establishes limitations on the duties and responsibilities of an operator of a sewer main with respect to a connection of a sewer service lateral to the sewer main.

Section 12 of this bill sets forth the duties of a person who connects a sewer service lateral to a sewer main. (NRS 455.131)

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

Section 1. Chapter 455 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***"Sewer main" means a sewer line with a diameter that exceeds 6 inches.***

Sec. 3. ***"Sewer service lateral" means a pipe or conduit that connects a building or other property to a sewer main.***

Sec. 4. ***If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:***

1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:

(a) Identification of the location of the connection of the sewer service lateral to the sewer main;

(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or

(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.

2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.

3. A government, governmental agency or political subdivision of a government that operates a sewer main may charge a person responsible

for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

4. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 5. (Deleted by amendment.)

Sec. 6. ***An operator of a sewer main shall maintain all information relating to the locations of connections of sewer service laterals to the sewer main:***

1. Developed by the operator pursuant to section 4 of this act; or

2. Provided to the operator pursuant to subsection 2 of NRS 455.131.

Sec. 7. ***An operator of a sewer main who is not otherwise required by law to be responsible for the maintenance, operation, ownership or repair of a sewer service lateral that connects to the sewer main does not assume any further duty with respect to a sewer service lateral pursuant to this chapter nor become responsible for the maintenance, operation, ownership or repair of the sewer service lateral that connects to the sewer main solely because the operator complied with the provisions of NRS 455.080 to 455.180, inclusive, and sections 2 to 7, inclusive, of this act.***

Sec. 8. NRS 455.080 is hereby amended to read as follows:

455.080 As used in NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 455.082 to 455.105, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 455.092 is hereby amended to read as follows:

455.092 "Excavation" means the movement or removal of earth, rock or other material in or on the ground by use of mechanical equipment or by the placement and discharge of explosives. The term includes augering, backfilling, ***boring,*** digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching and tunneling.

Sec. 10. NRS 455.107 is hereby amended to read as follows:

455.107 1. Except as otherwise provided in subsection 2, possession of a permit to conduct an excavation or demolition does not exempt a person from complying with the provisions of NRS 455.080 to 455.180, inclusive ~~[.]~~ ***, and sections 2 to 7, inclusive, of this act.***

2. A person is exempt from complying with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act,*** if he obtains the written consent of all operators involved in the proposed excavation or demolition before he receives a permit to conduct the excavation or demolition.

Sec. 11. NRS 455.130 is hereby amended to read as follows:

455.130 1. Except in an emergency or as otherwise provided in subsection 2 ~~[,]~~ ***or section 4 of this act,*** if an operator receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110, the operator shall:

(a) Locate and identify the subsurface installations and, if known, the number of subsurface installations that are affected by the proposed excavation or demolition to the extent and to the degree of accuracy that the information is available in the records of the operator or can be determined by using techniques of location that are commonly used in the industry, except excavating, within 2 working days or within a time mutually agreed upon by the operator and the person who is responsible for the excavation or demolition;

(b) Remove or protect a subsurface installation as soon as practicable if the operator decides it should be removed or protected; and

(c) Advise the person who contacted the association for operators of the location of the subsurface installations of the operator that are affected by the proposed excavation or demolition.

2. The operator shall notify the person who contacted the association for operators if the operator has no subsurface installations that are affected by the proposed excavation or demolition.

Sec. 12. NRS 455.131 is hereby amended to read as follows:

455.131 1. ~~[An]~~ ***Except as otherwise provided in subsection 2, an*** operator shall, for each subsurface installation that is installed on or after October 1, 2005, which cannot be detected from or above the surface of the ground by means of either the material used in constructing the subsurface installation or a conductor within the subsurface installation, install a permanent device which designates or provides a means of detecting a subsurface installation through the use of a noninvasive method from or above the surface of the ground. Such a device includes, without limitation, a tracer wire or a marker.

2. ***A person who connects a sewer service lateral to a sewer main shall, at the option of the operator of the sewer main:***

(a) Install a permanent device as described in subsection 1 of a type designated by the operator of the sewer main at the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way and promptly provide the operator of the sewer main with the location of such permanent devices;

(b) Promptly provide the operator of the sewer main with the location of the connection of the sewer service lateral to the sewer main and where the sewer service lateral exits the public right-of-way as described by global positioning system coordinates which:

(1) Are either identified by latitude and longitude using decimal degrees or are identified using coordinates of the Universal Transverse Mercator system; and

(2) Specify for each coordinate whether the North American Datum of 1927, North American Datum of 1983 or the World Geodetic System 1984 was used; or

(c) Provide to the operator of the sewer main notification of when the sewer service lateral is exposed so that the operator of the sewer main can identify the location of the sewer service lateral.

3. As used in this section:

(a) "Above ground marker" is a marker which is installed flush with the surface of the ground or which protrudes above the surface of the ground above a subsurface installation and includes information concerning the subsurface installation.

(b) "Electronic marker" is a marker which is buried at various depths below or near the surface of the ground above a subsurface installation and which contains a passive antenna that:

(1) Can be identified with detection equipment; and

(2) Does not require an internal power source.

(c) "Marker" is a device that physically designates the location of a subsurface installation at intermittent locations along or above the subsurface installation and includes, without limitation, an above ground marker or electronic marker.

(d) "Tracer wire" is a locating wire which is installed in conjunction with a subsurface installation and is connected to a transmitter that carries a signal which is read by a receiver above the surface of the ground for the detection of the location of the subsurface installation.

Sec. 13. NRS 455.150 is hereby amended to read as follows:

455.150 Any person who substantially complies with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is not liable for the cost of repairing any damage to a subsurface installation which results from his excavation or demolition.

Sec. 14. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the Public Utilities Commission of Nevada upon receipt of a complaint by the Attorney General, the Regulatory Operations Staff of the Public Utilities Commission of Nevada, a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Public Utilities Commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, ***and sections 2 to 7, inclusive, of this act*** before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the Public Utilities Commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 703.373.

Sec. 15. NRS 455.180 is hereby amended to read as follows:

455.180 The provisions of NRS 455.080 to 455.170, inclusive, ***and sections 2 to 7, inclusive, of this act*** do not affect any civil remedies provided by law for personal injury or property damage and do not create a new civil remedy for any personal injury or property damage.

Sec. 15.5. **Section 4 of this act is hereby amended to read as follows:**

If an operator of a sewer main receives notice through an association for operators pursuant to paragraph (a) of subsection 1 of NRS 455.110:

1. For a proposed excavation or demolition, the operator of the sewer main shall provide the person responsible for the excavation or demolition with the operator's best available information regarding the location of the connection of the sewer service lateral to the sewer main. The operator shall convey the information to the person responsible for the excavation or demolition in such manner as is determined by the operator which may include any one or more of the following methods, without limitation:

(a) Identification of the location of the connection of the sewer service lateral to the sewer main;

(b) Providing copies of documents relating to the location of the sewer service lateral within 2 working days; or

(c) Placement of a triangular green marking along the sewer main or the edge of the public right-of-way, pointing toward the real property serviced by the sewer service lateral to indicate that the location of the sewer service lateral is unknown.

2. The operator of a sewer main shall make its best efforts to comply with paragraph (a) or (c) of subsection 1 within 2 working days. If an operator of a sewer main cannot complete the requirements of paragraph (a) or (c) of subsection 1 within 2 working days, then the operator and the person responsible for the excavation or demolition must mutually agree upon a reasonable amount of time within which the operator must comply.

3. A government, governmental agency or political subdivision of a government that operates a sewer main ***:***

(a) Except as otherwise provided in subsection 4, in a county with a population of 40,000 or more may not charge a person responsible for excavation or demolition in a public right-of-way for complying with this section.

(b) In a county with a population of less than 40,000 may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section. Costs assessed pursuant to this ~~[subsection]~~ ***paragraph*** are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

4. ***A government, governmental agency or political subdivision that operates a sewer main in a county with a population of 40,000 or more may charge a person responsible for excavation or demolition in a public right-of-way for complying with this section in an amount that does not exceed the actual costs for the operator for compliance with this section if:***

(a) The sewer system of the operator services not more than 260 accounts; and

(b) There is no natural gas pipeline located within the service area of the operator of the sewer main,

➥ costs assessed pursuant to this subsection are not subject to the provisions of NRS 354.59881 to 354.59889, inclusive.

5. If the operator of a sewer main has received the information required pursuant to NRS 455.131 or has otherwise identified the location of the sewer service lateral in the public right-of-way, then the operator of the sewer main shall be responsible thereafter to identify the location of the sewer service lateral from that information.

Sec. 16. 1. On or before December 31, 2010, each operator of a sewer main shall submit a report to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature which provides:

(a) The number of sewer service lateral connections that the operator of the sewer main has identified between October 1, 2009, and September 30, 2010;

(b) The method that the operator of the sewer main used to locate such sewer service lateral connections; and

(c) The costs accrued by the operator of the sewer main to locate such sewer service lateral connections.

2. As used in this section:

(a) "Operator" has the meaning ascribed to it in NRS 455.096.

(b) "Sewer main" has the meaning ascribed to it in section 2 of this act.

(c) "Sewer service lateral" has the meaning ascribed to it in section 3 of this act.

Sec. 17. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 18. **1. This section and sections 1 to 15, inclusive, 16 and 17 of this act become effective on October 1, 2009.**

2. Section 15.5 of this act becomes effective on January 1, 2011.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 80.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 225.

The following Senate amendment was read:

Amendment No. 849.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical facility; mandating that such an ordinance in a county whose population is 400,000 or more limit the number of such transports by the department ~~[and require an annual]~~ **; requiring a board of county commissioners in a county whose population is 400,000 or more to submit a quarterly** report to the Legislature **and the Legislative Committee on Health Care** of ~~[the fees charged for, and the number of, such transports;]~~ **various information relating to the transport of sick and injured persons to medical facilities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide

ambulance service. **Section 1** also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available. **Section 2** of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3** of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit ~~[an annual]~~ **a quarterly** report to the Legislature **and the Legislative Committee on Health Care** regarding the number of yearly transports made by the fire department and **all ambulance companies. The report must include, without limitation,** the fees charged for those transports ~~[.]~~ **, whether or not the persons transported had health insurance and what medical facilities the persons were transported to and from.**

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. ~~[If]~~ ***Except as otherwise provided in subsection 6, if*** the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ ***(b)*** Establishing a schedule of such fees **.** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2:***

(a) Limit the number of transports of sick or injured persons to a medical facility that may be made by the fire department to not more than 1,000 such transports per year, except that the fire department may, exclusive of the limit, make any such emergency transport that is necessary for the health or life of a sick or injured person when other ambulance services are not available; and

(b) Require the fire department and all other ambulance services operating in the county to report to the board ~~[the]~~ :

(1) The total number of transports of sick or injured persons to a medical facility that are made ~~[by the fire department]~~ each month ~~[.]~~ ; and

(2) For each transport reported pursuant to subparagraph (1):

(I) The fees charged to transport the person to a medical facility;

(II) Whether the person had health insurance at the time of the transport; and

(III) The name of the medical facility where the fire department or ambulance service transported the person to or from.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

6. The provisions of subsection 2 do not apply to any county for which a nonprofit corporation has been granted an exclusive franchise for ambulance service in that county.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. The board of county commissioners of a county whose population is 400,000 or more shall **, each calendar quarter,** submit ~~[an annual]~~ **a** report to the **Legislative Committee on Health Care and the** Director of the Legislative Counsel Bureau ~~[not later than January 15 of each year]~~ for transmittal to the Legislature, if the Legislature is in session **,** ~~[that year,]~~ or to the Legislative Commission, if the Legislature is not in session **.** ~~[that year.]~~ The report must include, without limitation ~~[:~~

~~1. The fees charged by the fire department for transport of sick or injured persons to a medical facility; and~~

~~2.~~ **, the following information related to each fire department and ambulance service operating in the county:**

1. The **total** number of ~~[such]~~ transports **of sick or injured persons to a medical facility** that ~~[are]~~ **were** made by the fire department ~~[each]~~ **or ambulance service during that** calendar ~~[year.]~~ **quarter.**

2. For each person transported by the fire department or ambulance service during the calendar quarter:

(a) The fees charged to transport the person to a medical facility;

(b) Whether the person had health insurance at the time of transport; and

(c) The name of the medical facility where the fire department or ambulance service transported the person to or from.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 225.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:20 a.m.

ASSEMBLY IN SESSION

At 12:49 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 421, 426, 428, 431, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bills Nos. 421, 426, 428, and 431 considered engrossed, declared emergency measures under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 90.

The following Senate amendment was read:

Amendment No. 651.

AN ACT relating to deceptive trade practices; requiring that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances; authorizing the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows the Attorney General to investigate suspected deceptive trade practices and to institute proceedings to seek certain remedies for such violations. (Chapter 598 of NRS)

Section 1 of this bill requires that information obtained in the course of certain investigations and proceedings be kept confidential in certain circumstances. **Section 1** also authorizes the Attorney General to share such information, and otherwise cooperate with, officials of the Federal Government and other states.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General, in the course of the investigation of any alleged violations of this chapter, may obtain and use any intelligence, investigative information or other information obtained ~~*[as the result of a subpoena or civil investigative demand]*~~ ***by or made available to the Attorney General .*** ~~*[on a confidential or similarly restricted basis. Any]*~~ ***Except as otherwise provided in subsections 2 and 3, any such intelligence or information received must retain its confidential status under the laws of this State until the Attorney General institutes civil or criminal proceedings and is exempt from the provisions of NRS 239.010.***

2. ~~*[The Attorney General may withhold from public inspection or refuse to disclose to a person, for such time as the Attorney General considers necessary, any intelligence or information obtained pursuant to subsection 1 or NRS 598.0963 that, in the Attorney General's judgment, would impede or otherwise interfere with an investigation that is currently pending.*~~

~~*3. The]*~~ ***Except as otherwise provided in subsection 4, the Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with State and local agencies, officials of the Federal Government and the several states, including, but not limited to,***

the sharing of information and evidence obtained in accordance with subsection 1 or NRS 598.0963.

3. The provisions of subsections 1 and 2 do not prohibit the Attorney General from disclosing any intelligence or information received pursuant to subsection 1, including, without limitation, the address or telephone number of a business or organization, before the Attorney General institutes civil or criminal proceedings if, in the discretion of the Attorney General, that disclosure is necessary to protect consumers and businesses.

4. If any information sought pursuant to an investigation of an alleged violation of this chapter includes a trade secret, the Attorney General shall enter into, and be bound by, an agreement regarding limitations on the disclosure of that information to protect that trade secret. Notwithstanding the provisions of this section, the Attorney General shall not disclose that information in violation of the terms of the agreement. For the purposes of this subsection, "trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 2. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 598.0963 is hereby amended to read as follows:

598.0963 1. Whenever the Attorney General is requested in writing by the Commissioner or the Director to represent him in instituting a legal proceeding against a person who has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person on behalf of the Commissioner or Director.

2. The Attorney General may institute criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** The Attorney General is not required to obtain leave of the court before instituting criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

4. If the Attorney General has cause to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General may issue a subpoena to require the testimony of any person or the production of any documents, and may administer an oath or affirmation to any person providing such testimony. The subpoena must be served upon the person in the manner required for service of process in this State or by certified mail with return receipt requested. An employee of the Attorney General may personally serve the subpoena.

Sec. 5. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** to particular persons or circumstances.

2. Service of any notice or subpoena must be made as provided in N.R.C.P. 45(c).

Sec. 6. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may

make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 7. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to NRS 598.0979 to 598.099, inclusive, ***and section 1 of this act,*** if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability, the court may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than $12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his primary residence or principal source of income; or

(f) Any other factors that the court deems to be appropriate.

Sec. 8. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554, for the same act.

Sec. 9. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act, NRS*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to

598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 90.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Mastroluca, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 463.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 387.

The following Senate amendment was read:

Amendment No. 801.

AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain

providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

Section 7 of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

Section 8 of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805.

Section 4.3 of this bill requires the Commission to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed **, ~~[or]~~** accepted **or made known to the Commission** since the last report.

Section 9 of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from 2025 onward. **Section 9** also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard from 2015 onward. Additionally, **section 9** exempts providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

Section 4.7 of this bill **~~[~~**~~creates a~~**~~]~~** **provides that the** portfolio standard **~~[~~**~~specifically~~**~~]~~** for electricity sold by providers of new electric resources **~~[.~~** ~~Sections 10.3 and 10.7 of this bill revise provisions governing providers of new electric resources to comport with the provisions of section 4.7 of this bill.~~**~~]~~** **is the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the Commission issues an order approving an application or request submitted by the provider of new electric resources.**

Section 11 of this bill requires the plan described in **section 6** to be filed not later than January 1, 2011. **Section 12** of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.

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

Section 1. NRS 701B.290 is hereby amended to read as follows:

701B.290 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 **~~[.]~~** ***and section 4.7 of this act.***

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 2. NRS 701B.640 is hereby amended to read as follows:

701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 3. NRS 701B.870 is hereby amended to read as follows:

701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 4. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 4.3 and 4.7 of this act.

Sec. 4.3. ***On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed*** ~~*[or]*~~ ***by, adopted by or made known to the Commission since the last report.***

Sec. 4.7. ***1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order.*** ~~*[Except as otherwise provided in subsection 2, the]*~~ ***The portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in*** ~~*[an amount that is :*~~

~~*(a) If the order was issued during or before calendar year 2008, not less than 9 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(b) If the order was issued in calendar year 2009 or 2010, not less than 12 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(c) If the order was issued in calendar year 2011 or 2012, not less than 15 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(d) If the order was issued in calendar year 2013 or 2014, not less than 18 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(e) If the order was issued in calendar year 2015 through 2024, inclusive, not less than 20 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*(f) If the order was issued in calendar year 2025 or any calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.*~~

~~*2. If the Commission, pursuant to section 10.3 of this act, approves an increase in the amount of electricity that an eligible customer may purchase from a provider of new electric resources, the Commission shall establish in the order approving the increase a new portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the orders described in this subsection and subsection 1. The new portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is not less than the applicable percentage in subsection 1 which corresponds to the calendar year in which the Commission issues the order approving the increase.*~~

~~*3.]*~~ ***the amounts described in the portfolio standard set forth in NRS 704.7821 which is effective on the date on which the order approving the application or request is approved.***

2. Of the total amount of electricity that a provider of new electric resources is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.

~~*[4.]*~~ ***3. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation***

of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~*[5.]*~~ ***4. As used in this section:***

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

Sec. 5. NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, ***and section 4.3 of this act*** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

Sec. 6. NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation ~~[, prescribe]~~ ***:***

(a) Prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

~~[(a)]~~ ***(1)*** Forecast the future demands; and

~~[(b)]~~ ***(2)*** Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[.]~~ ***; and***

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

4. The Commission shall require the utility to include in its plan a plan for construction or expansion of transmission facilities to serve renewable energy zones ~~*[.]*~~ ***and to facilitate the utility in meeting the portfolio standard established by NRS 704.7821.***

5. As used in this section, "renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

Sec. 7. NRS 704.746 is hereby amended to read as follows:

704.746 1. After a utility has filed its plan pursuant to NRS 704.741, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; ~~[and]~~

(6) Other generation facilities ~~[.]~~ ***; and***

(7) Other transmission facilities.

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

6. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each renewable energy zone, as designated pursuant to subsection 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

Sec. 8. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

Sec. 8.2. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity must not be used to reduce any other fee or charge imposed by the utility.

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.***

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 ***and section 4.7 of this act*** equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 8.4. NRS 704.7801 is hereby amended to read as follows:

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 8.6. NRS 704.7805 is hereby amended to read as follows:

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~[.]~~ ***and section 4.7 of this act.***

Sec. 8.8. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that ~~[:~~

~~(a) Uses]~~ ***uses*** renewable energy or energy from a qualified energy recovery process to generate electricity ~~[;]~~ and ***:***

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process ~~[via:~~

~~(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service;]~~ ~~[or]~~

~~[(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service]~~ ~~[.]~~ ~~*[; or*~~

~~*(3) A power line which:*~~

~~*(I) Is connected to a facility or system owned, operated or controlled by a provider of electric service; and*~~

~~*(II) Is not owned, operated or controlled by the provider of electric service.]~~ ***to a provider of electric service for delivery into and use in this State.***

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

Sec. 9. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar ~~[year]~~ ***years*** 2015 ~~[and for each calendar year thereafter,]~~ ***through*** ~~*[2024,]*~~ ***2019, inclusive,*** not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar years 2020 through 2024, inclusive, not less than 22 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(h) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ***:***

(1) For calendar years 2009 through ~~*[2014,]*~~ ***2015, inclusive,*** 5 percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year ~~*[2015]*~~ ***2016 and for each calendar year thereafter, 6 percent of that amount must be generated or acquired from solar renewable energy systems.***

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. ~~[The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures.~~

~~4.~~ If, for the benefit of one or more retail customers in this State, the provider ~~, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS,~~ has paid for or directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

~~5.~~ ***4.*** The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

~~6.~~ ***5.*** Except as otherwise provided in subsection ~~7,~~ ***6,*** each provider shall comply with its portfolio standard during each calendar year.

~~7.~~ ***6.*** If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

~~8.~~ ***7.*** The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. ~~*[The]*~~ ***Except as otherwise provided in section 4.7 of this act, the provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.***

9. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 9.3. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 9.5. NRS 704.7823 is hereby amended to read as follows:

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[.]~~ ***or section 4.7 of this act.***

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

Sec. 9.7. NRS 704.7828 is hereby amended to read as follows:

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[.]~~ ***, and section 4.7 of this act.*** The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to

ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. ***If a provider exceeds the portfolio standard for any calendar year, the Commission shall authorize the provider to carry forward to subsequent calendar years for the purpose of complying with the portfolio standard for those subsequent calendar years any excess kilowatt-hours of electricity that the provider generates, acquires or saves from portfolio energy systems or efficiency measures.***

3. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** the Commission ~~[may]~~ ***:***

(a) Shall require the provider to carry forward to subsequent calendar years the amount of the deficiency in kilowatt-hours of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; and

(b) May impose an administrative fine against the provider or take other administrative action against the provider, or do both.

~~[3.]~~ ***4.*** The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

~~[4.]~~ ***5.*** In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the provider complies with its portfolio standard, as determined by the Commission.

~~[5.]~~ ***6.*** If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

~~[6.]~~ ***7.*** All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

Sec. 10. NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, ***and section 4.3 of this act*** applies to the Commission for a permit for the construction of a utility facility:

1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and

2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

Sec. 10.3. ~~[Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***Before an eligible customer may increase the amount of electricity the eligible customer purchases from a provider of new electric resources in accordance with an order of the Commission which approved an application filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325, the eligible customer must apply to and receive approval from the Commission for the increase. If the Commission approves the increase, the Commission must issue a written order approving the increase.]***~~ **(Deleted by amendment.)**

Sec. 10.5. NRS 704B.320 is hereby amended to read as follows:

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the

best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 10.7. ~~[~~NRS 704B.325 is hereby amended to read as follows:~~]~~

~~704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy,~~

~~capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer.~~

~~2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.~~

~~3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis.~~ ***If the Commission approves the request, the Commission must issue a written order approving the request.***

~~4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:~~

~~(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and~~

~~(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.~~**] (Deleted by amendment.)**

Sec. 11. Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in NRS 704.741, as amended by section 6 of this act.

Sec. 11.5. ~~[If the Public Utilities Commission of Nevada issued an order before July 1, 2009, to which paragraph (a) or (b) of subsection 1 of section 4.7 of this act applies, the Commission must revise the order, as needed, to meet the requirements of paragraph (a) or (b) of subsection 1 of section 4.7 of this act, as applicable. For the purposes of section 4.7 of this act, a revised order issued in accordance with this section shall be deemed to have been issued on the date that the original order was issued.~~] **(Deleted by amendment.)**

Sec. 12. The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 387.

Remarks by Assemblyman Conklin.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 358, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARCUS CONKLIN, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bill No. 358 considered engrossed, declared an emergency measure under the *Constitution*, and placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 358.
Bill read third time.
Roll call on Senate Bill No. 358:
YEAS—40.
NAYS—Gustavson.
EXCUSED—Hardy.
Senate Bill No. 358 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 421.
Bill read third time.
Remarks by Assemblyman Arberry.
Potential conflict of interest declared by Assemblyman Denis.
Roll call on Senate Bill No. 421:
YEAS—41.
NAYS—None.
EXCUSED—Hardy.
Senate Bill No. 421 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 426.
Bill read third time.
Remarks by Assemblymen Conklin and Gansert.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 426:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Senate Bill No. 426 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 428.

Bill read third time.

Remarks by Assemblyman Arberry.

Roll call on Senate Bill No. 428:

YEAS—42.

NAYS—None.

Senate Bill No. 428 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 431.

Bill read third time.

Remarks by Assemblyman Arberry.

Roll call on Senate Bill No. 431:

YEAS—42.

NAYS—None.

Senate Bill No. 431 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 358, 421, 426, 428, and 431 be immediately transmitted to the Senate.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 102, Amendment No. 867; Assembly Bill No. 147, Amendment No. 789; Assembly Bill No. 281, Amendment No. 766; Assembly Bill No. 309, Amendments Nos. 693, 876; Assembly Bill No. 320, Amendments Nos. 694, 871; Assembly Bill No. 454, Amendment No. 763; Assembly Bill No. 513, Amendment No. 762, and respectfully requests your honorable body to concur in said amendments.

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 463, Senate Amendment No. 758, and requests a conference, and appointed Senators Wiener, Woodhouse, and Hardy as a Conference Committee to meet with a like committee of the Assembly.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

Assemblywoman Smith moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 1:14 p.m.

ASSEMBLY IN SESSION

At 2:35 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 543.

The following Senate amendment was read:

Amendment No. 880.

SUMMARY—Temporarily redirects a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund and ~~[~~authorizes~~]~~ **revises the provisions governing** the imposition **and use** of a supplemental governmental services tax in certain counties. (BDR 31-1187)

AN ACT relating to taxation; temporarily redirecting a portion of the taxes ad valorem levied in Clark and Washoe Counties to the State General Fund; ~~[~~authorizing~~]~~ **revising the provisions governing** the imposition **and use** of a supplemental governmental services tax in certain counties; **temporarily redirecting a portion of certain taxes imposed in Clark County to the county general fund;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a county to impose an ad valorem tax for capital projects in the amount of 5 cents per $100 of the assessed valuation of the county. (NRS 354.59815) **Section 1** of this bill requires the deposit into the State General Fund of a portion of the proceeds of any such tax imposed during the next 2 fiscal years in a county whose population is 100,000 or more (currently Clark and Washoe Counties).

Existing law authorizes a board of county commissioners, after receiving the approval of the voters, to impose a supplemental governmental services tax of 1 cent on each $1 valuation of a vehicle. (NRS 371.045) **Section 4** of this bill authorizes the board of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to impose such a tax without voter approval ~~[.]~~ **and expands the purposes for which such a county may expend the proceeds thereof. Section 5 of this bill expands the purposes for which a county whose population is 400,000 or more (currently Clark County) may expend the proceeds of such a tax.**

Section 8 of this bill requires the deposit into the State General Fund of the portion of the property taxes levied for the next 2 fiscal years for operating

purposes by Clark and Washoe Counties at the rate of 4 cents per $100 of assessed valuation.

Section 9 of this bill requires the transfer to the general fund for Clark County of certain proceeds for the next 2 fiscal years of taxes imposed in the County on revenues from the rental of transient lodging, on the privilege of new residential, commercial, industrial and other development, and on the privilege of operating a vehicle on the public streets, roads and highways.

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

Section 1. NRS 354.59815 is hereby amended to read as follows:

354.59815 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811, the board of county commissioners may levy a tax ad valorem on all taxable property in the county at a rate not to exceed 5 cents per $100 of the assessed valuation of the county.

2. If a tax is levied pursuant to subsection 1 in:

(a) A county whose population is less than 100,000, the board of county commissioners shall direct the county treasurer to distribute quarterly the proceeds of the tax among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all of the local governments in the county for the 1990-1991 Fiscal Year.

(b) A county whose population is 100,000 or more, the board of county commissioners shall direct the county treasurer to distribute quarterly, from the proceeds of the tax for:

(1) The fiscal year beginning on July 1, 2008:

(I) Eighty-eight percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Twelve percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(2) The fiscal year beginning on July 1, 2009:

(I) Seventy-six percent of those proceeds ~~[among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the~~

~~county for the 1990-1991 Fiscal Year;~~] ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Twenty-four percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(3) The fiscal year beginning on July 1, 2010:

(I) Sixty-four percent of those proceeds [~~among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year;~~] ***to the State Treasurer for deposit in the State General Fund;*** and

(II) Thirty-six percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(4) The fiscal year beginning on July 1, 2011:

(I) Fifty-two percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Forty-eight percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

(5) Each fiscal year beginning on or after July 1, 2012:

(I) Forty percent of those proceeds among the county and the cities and towns within that county in the proportion that the supplemental city-county relief tax distribution factor of each of those local governments for the 1990-1991 Fiscal Year bears to the sum of the supplemental city-county relief tax distribution factors of all the local governments in the county for the 1990-1991 Fiscal Year; and

(II) Sixty percent of those proceeds to the State Treasurer for deposit in the State Highway Fund for administration pursuant to subsection 7 of NRS 408.235.

3. The board of county commissioners shall not reduce the rate of any tax levied pursuant to the provisions of subsection 1 without the approval of the State Board of Finance and each of the local governments that receives a portion of the tax, except that, if a local government declines to receive its portion of the tax in a particular year the levy may be reduced by the amount that local government would have received.

Sec. 2. NRS 244.33516 is hereby amended to read as follows:

244.33516 A board of county commissioners which, after [~~March 25, 1991,~~] ***July 1, 2009,*** imposes a tax pursuant to NRS 244.3351, 278.710,

365.203, 371.045, 373.030 or 377A.020 ~~[.]~~ ***or section 4 of this act,*** shall, by January 1, ~~[2001,]~~ ***2011,*** and every 10 years thereafter:

1. Prepare a comprehensive report which includes:

(a) A statement of the proposed uses during the following 10 years of the revenues to be collected from each tax imposed; and

(b) A projection of the principal amount of any general or special obligation bonds or other securities proposed to be issued during the following 10 years to fund projects described in paragraph (a) of subsection 2 of NRS 244.33512;

2. Hold a public hearing to consider and solicit comments on the report; and

3. Provide a copy of the report to the next regular session of the Legislature.

Sec. 3. NRS 244A.256 is hereby amended to read as follows:

244A.256 1. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (a) of subsection 1 of NRS 244.3351 or paragraph (a) of subsection 1 of NRS 278.710 or pursuant to NRS 371.045 ***or section 4 of this act*** or, with the consent of the regional transportation commission, received from the proceeds of the tax imposed pursuant to NRS 377A.020, or any combination of money from those sources with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in paragraph (a) of subsection 2 of NRS 244.33512, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

2. A county may pledge any money received from the proceeds of taxes imposed pursuant to paragraph (b) of subsection 1 of NRS 244.3351 or paragraph (b) of subsection 1 of NRS 278.710, or any combination of money from those taxes with revenue derived from the project financed with the proceeds of the obligations for whose payment those taxes are pledged, including any existing or future extensions or enlargements thereof, for the payment of general or special obligations issued for projects described in subsection 1 of NRS 244.33514, if the project for which the securities are issued could be directly funded with the taxes whose proceeds are pledged for the payment of the securities.

3. Any money pledged by the county pursuant to subsection 1 or 2 may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

Sec. 4. Chapter 371 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance, but not as in a case of emergency, impose a supplemental governmental services tax of not

more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

3. Except as otherwise provided in subsection 4 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

4. The county may expend ~~[the]~~ :

(a) Any proceeds of the supplemental governmental services tax authorized by this section, or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to ~~[the]~~ any projects to be financed with the proceeds of the tax.

(b) Any proceeds of the supplemental governmental services tax authorized by this section to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

5. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 5. NRS 371.045 is hereby amended to read as follows:

371.045 1. A board of county commissioners ***of a county whose population is less than 100,000 or is 400,000 or more*** may by ordinance, but

not as in a case of emergency, after receiving the approval of a majority of the registered voters voting on the question at a primary, general or special election, impose a supplemental governmental services tax of not more than 1 cent on each $1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except:

(a) A vehicle exempt from the governmental services tax pursuant to this chapter; or

(b) A vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations.

2. A county may combine this question with questions submitted pursuant to NRS 244.3351, 278.710 or 377A.020, or any combination thereof.

3. A special election may be held only if the board of county commissioners determines, by a unanimous vote, that an emergency exists. The determination made by the board is conclusive unless it is shown that the board acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the board must be commenced within 15 days after the board's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the board of county commissioners to prevent or mitigate a substantial financial loss to the county or to enable the board to provide an essential service to the residents of the county.

4. Collection of the tax imposed pursuant to this section must not commence earlier than the first day of the second calendar month after adoption of the ordinance imposing the tax.

5. Except as otherwise provided in subsection 6 and NRS 371.047, the county shall use the proceeds of the tax to pay the cost of:

(a) Projects related to the construction and maintenance of sidewalks, streets, avenues, boulevards, highways and other public rights-of-way used primarily for vehicular traffic, including, without limitation, overpass projects, street projects or underpass projects, as defined in NRS 244A.037, 244A.053 and 244A.055, respectively:

(1) Within the boundaries of the county;

(2) Within 1 mile outside the boundaries of the county if the board of county commissioners finds that such projects outside the boundaries of the county will facilitate transportation within the county; or

(3) Within 30 miles outside the boundaries of the county and the boundaries of this State, where those boundaries are coterminous, if:

(I) The projects consist of improvements to a highway which is located wholly or partially outside the boundaries of this State and which connects this State to an interstate highway; and

(II) The board of county commissioners finds that such projects will provide a significant economic benefit to the county;

(b) Payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in paragraph (a); or

(c) Any combination of those uses.

6. The county may ~~[expend the]~~ **:**

(a) Expend any proceeds of the supplemental governmental services tax authorized by this section **,** ~~[and NRS 371.047,]~~ or any borrowing in anticipation of that tax, pursuant to an interlocal agreement between the county and the regional transportation commission of the county with respect to ~~[the]~~ ***any*** projects to be financed with the proceeds of the tax.

(b) If the population of the county is 400,000 or more, expend any proceeds of the supplemental governmental services tax authorized by this section to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

7. As used in this section, "based" has the meaning ascribed to it in NRS 482.011.

Sec. 6. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045 ~~[,]~~ ***or section 4 of this act,*** or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045 ~~[,]~~ ***or section 4 of this act, as applicable.***

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 7. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047 ~~[.]~~ ***and section 4 of this act.***

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City	1.07 percent	Lincoln	3.12 percent
Churchill	5.21 percent	Lyon	2.90 percent
Clark	22.54 percent	Mineral	2.40 percent
Douglas	2.52 percent	Nye	4.09 percent
Elko	13.31 percent	Pershing	7.00 percent
Esmeralda	2.52 percent	Storey	.19 percent
Eureka	3.10 percent	Washoe	12.24 percent
Humboldt	8.25 percent	White Pine	5.66 percent
Lander	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 8. 1. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Clark County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Clark County from taxes ad valorem.

2. Notwithstanding any other statutory provision to the contrary, the County Treasurer of Washoe County shall distribute quarterly to the State Treasurer for deposit in the State General Fund, from the proceeds of the taxes ad valorem levied by that County for the operating expenses of the County during the fiscal years beginning on July 1, 2009, and July 1, 2010, the amount of those proceeds attributable to the levy of those taxes on all taxable property in the County at the rate of 4 cents per $100 of assessed valuation. For the purposes of NRS 354.59811, the amount of the proceeds

distributed to the State Treasurer pursuant to this subsection shall be deemed to constitute revenue received by Washoe County from taxes ad valorem.

Sec. 9. **Notwithstanding any other statutory provision to the contrary:**

1. The Chief Financial Officer of Clark County shall:

(a) Determine the amount of:

(1) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, which is retained by the County pursuant to paragraph (b) of subsection 1 of NRS 244.33512;

(2) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, from any tax imposed in the County pursuant to NRS 278.710; and

(3) Any revenue for the fiscal years beginning on July 1 2009, and July 1, 2010, from any tax imposed in the County pursuant to NRS 371.045,

which is not needed for debt service on any bonds or other securities which are payable from or secured by any of that revenue, or for any reserves therefor or any other expenses related to those bonds or other securities, or for any other existing contractual obligations, and which may be available, under the terms of any bonds or other securities to which all or any combination of such revenue has been pledged, for distribution pursuant to paragraph (b); and

(b) Transfer to the county general fund such a portion of the amount determined pursuant to paragraph (a) as the Board of County Commissioners of Clark County determines to be appropriate based upon any financial needs for existing contractual obligations, for bonds anticipated to be issued in the future, for anticipated future debt service on outstanding bonds and bonds anticipated to be issued in the future, and for any reserves therefor.

2. Any money transferred to the county general fund pursuant to subsection 1 may be expended to pay the operating costs of the county and any other costs to carry out the governmental functions of the county.

~~[Sec. 9.]~~ ***Sec. 10.*** The amendatory provisions of section 1 of this act must not be applied to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of any county, city or town, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

~~[Sec. 10.]~~ ***Sec. 11.*** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 543.

Remarks by Assemblyman Arberry.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the Assembly resolve itself into a Committee of the Whole.
Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblywoman Buckley presiding.
Quorum present.

Additional revenue for the provision of governmental services considered.

CHAIR BUCKLEY:

As you all know, we are waiting for a bill from the Senate, Senate Bill 429. It is not here yet. I thought I would go ahead and have our staff talk about the revenue components of it now, so that if there are any questions, folks can ask them now.

Staff has prepared a couple of sheets. One is called "Revenue Enhancements" and the other is an "Effective Tax Rate Summary." I will ask our staff to talk about the revenue components contained in Senate Bill 429.

We thank you, Russell and Mark, for coming to this rather informal setting and being with us today.

RUSSELL J. GUINDON, SENIOR DEPUTY FISCAL ANALYST, FISCAL ANALYSIS DIVISION, LEGISLATIVE COUNSEL BUREAU:

I thought, perhaps, the easiest way to do this is to go through the revenue enhancement items which are in S.B. 429, in the order that they are on the sheet that the Chair referred to as revenue enhancements.

One of the components that is included in S.B. 429 is an increase of .35 percent in the Local School Support Tax, most generally referred to as the LSST. This is the current 2.25 percent Sales and Use Tax rate that provides funding to K-12 education through the Distributive School Account funding mechanism. Thus, with the .35 percent increase, the rate would go from 2.25 percent to 2.6 percent. The way S.B. 429 is crafted is that the .35 rate will be specified as a separate rate, rather than adding it to the 2.25 to create a 2.26 percent rate. The reason for doing so is to be consistent with other legislation that has been considered and I think, being adopted, it would prevent this additional levee from being subject to the 75 percent pledge for STAR (Sales Tax Anticipated Revenue) bonds. This was a way, in a sense, of protecting the revenue that comes from this additional yield and not providing additional money to the allocation that is made for the STAR bonds.

The next revenue item is the Modified Business Tax on nonfinancial institutions. This is a tax that was first created during the 2003 Session. Under current statutory structure, the tax is .63 percent of the taxable wages that an employer pays to their employees on a quarterly basis. Taxable wages is defined to be the gross wages that an employer pays the employees, less allowable health care deductions. The tax is closely structured to Chapter 612 which is the unemployment insurance tax chapter. So, wages that are required to be reported under that chapter get picked up under the Modified Business Tax. The proposal here is actually to take the tax, which is a current flat rate of .63 percent, and create a two-tiered mechanism so that the taxable wages, up to $62,500 a quarter, will be taxed at .5 percent. So, it is a reduction from the .63 percent. Any quarterly taxable wages above the $62,500 will be taxes at 1.17 percent.

The other table that the Chair referred to that says "MBT Effective Tax Rate Summary" provides some examples for ten different businesses, at various levels of business payroll, or in

this scenario, taxable wages, and what they would pay at the .63 percent rate. You can see the estimated gross tax liability at .63 percent. Under alternative scenarios, you can see what would be paid by the various businesses under the two-tiered proposal. You can see that the first three businesses are at or below the $250,000, because $62,500 per quarter is $250,000 in annual taxable wages. You can see, at the bottom, the impact on the MBT change, and that they are actually paying less tax. Again, this is because you are giving them the tax benefit of lowering the rate from .63 percent to .5 percent on the first $62,500 in taxable wages each quarter. Then you can see, for businesses four through ten, as the amount of taxable wages increases, then, obviously, the levee can increase. Eventually, it can approach the top bracket which is 1.17 percent.

The next revenue item on the sheet is the business license fees. Again, the business license fee was first put into place during the 2003 Session. At that point in time, it was a $100 business license fee. It has been kept at that level since the 2003 Session. You pay the business license fee when you initially file your business with the Department of Taxation, for the right to do business in Nevada. There is an annual renewal of the $100 each year. The proposal here would be to increase the business license fee from $100 to $200. When you do the initial filing of the business license fee, you would pay $200, and then you would pay $200 annually thereafter as long as you continue to do business in the State of Nevada.

What S.B. 429 does is make this effective July 1, 2009, for the people who are covered on the current statutory construct for the business license fee. There is a complimentary business license fee proposal and that is A.B. 146. This has been commonly referred to this session as the business portal bill. In that bill, there are provisions which will be effective October 1, 2009. The Secretary of State will become responsible for the business license fee as part of the test revenue for the business license portal development. It will also, then, be charging the $200 annual and the $200 renewal fee but there also provisions in A.B. 146 such that we will pick up what are called the Title VII entities. These are the people that are filing with the Secretary of State for their corporations, their limited liability companies, their limited partnerships and are filing, but they are not necessarily physically doing business here in the state. And so, again, that would be July 1, 2009, that we would pick up the current people and October 1, 2009, it converts over to the Secretary of State as part of the business portal proposal. While I am thinking of it, I should clarify. Under the Local School Support Tax, this tax increase is proposed to be effective July 1, 2009, and the Modified Business Tax also has a July 1, 2009, effective date, also.

The final revenue item that is included in S.B. 429 is what is referred to as the Governmental Services Tax or the GST. This is the four cents per dollar or four percent that you pay when you register your car with the Department of Motor Vehicles. The proposal is to change the depreciation schedule. I should back up a little and give you a little background on the tax to get the reference point. Under the current law, you start with the manufacturer's suggested retail price of the vehicle and you take that, times 35 percent, to get what is called taxable value. Then you take that times the appropriate depreciation rate for one through nine years as specified in statute. That rate starts at 100 percent, obviously, with a new car, and then goes down by 15 percent in year one and then goes down to 85 percent and then goes down by 10 percent each year thereafter until, at nine years, it is at five percent.

The four cent basic GST, currently under statute, is allocated to the school districts and then to the counties for distribution through the consolidated tax distribution account. The proposal in S.B. 429 would end up changing the depreciation schedule such that for the first year it would stay at 100 percent, then each year thereafter 10 percent would be added to the depreciation rate. What it ends up looking like is taking the current depreciation schedule and sliding it to the right and down one so it is like freezing things for a year in terms of what is paid now under this proposal, would be paid again next year. You would start to pay less as the depreciation schedule kicked in.

Under this proposal, it is the change in the depreciation schedule that generates the additional money, which will be allocated to the State General Fund. Thus, under this proposal there is no harm to the school districts or the counties because there are allocation percentages that say how much at each depreciation range has to be allocated to the General Fund such that the school districts and the counties are held harmless. That is scheduled to become effective September 1,

2009, so thus we only get ten months of revenue in Fiscal Year 2010, as you can see on the handout, and then the full 12 months in Fiscal Year 2011. With that Madam Chair, I think I have covered, at the high level, the revenue enhancement proposals that are included in S.B. 429, and I can attempt to answer any questions the members of the Assembly may have.

CHAIR BUCKLEY:
Thank you, Russell. Assemblyman Hardy.

ASSEMBLYMAN HARDY:
Thank you, Madam Chair. I heard the word quarterly when we were using the MBT effective tax rate summary sheet that we have. Are those projections at the very bottom of the impacted MBT changes annually or quarterly?

RUSSELL GUINDON:
That is a very good question. The MBT effective tax rate summary is just to show you on an annual basis. So, you are absolutely correct. If you look at the revenue enhancement sheet, under comments, it gives you the description there that $250,000 on an annual basis is $62,500 a quarter. It was just easier to show you those annual amounts for purposes of example.

CHAIR BUCKLEY:
Thank you, Dr. Hardy. I know the Taxation Committee had an opportunity to ask questions and to vet this but other members didn't. So, I thought we would at least get the overview before we see what they finally pass over there. It seems to be changing every ten minutes. Further questions? Assemblywoman McClain?

ASSEMBLYWOMAN MCCLAIN:
Thank you, Madam Speaker. Russell, maybe you would like to explain to the body about the difference in the .50 rate and the proposed new rate and how it affects some of our businesses, especially the small businesses and the amount of them.

RUSSELL GUINDON:
The analysis for this tax involved us being able to get the information on the taxpayers for Fiscal Year 2008 from the Department of Taxation, by taxpayer. This was per quarter for each of the four quarters of Fiscal Year 2008. We were able to stratify and analyze that information. With the information that was used, we took the Economic Forum's May 1, 2009, estimates and produced the estimates of the additional revenue that you see here in the handout. Based on the analysis of the taxpayers who paid the modified business tax on nonfinancial institutions in Fiscal Year 2008, had this proposal been in place, approximately 74 percent of the taxpayers are below $250,000 a year in annual taxable wages. I think that is what you are referring to.

CHAIR BUCKLEY:
I really had no idea that the percentage would be that high, that 74 percent of Nevada's businesses have wages that are $250,000 or lower. We always say small businesses are the foundation of the business community but that number is just staggering. Further questions? I don't see any. Russell, thank you very much.
Is there anyone in the public who would like to provide any testimony on any of the tax component elements?

ASSEMBLYMAN SETTELMEYER:
Madam Chair, I had a question. It has business license fees in here. Didn't we do that as part of another bill? How does that relate? What happened with that?

CHAIR BUCKLEY:
Russell, would you come back down? I do not know if you heard the question. The question was about the business license fee and did we do that in another bill with Assembly Bill No. 146, and how does that relate to what is in S.B. 429.

RUSSELL GUINDON:

Yes. Thank you. The provisions that are included in S.B. 429, with regards to the business license fee become effective July 1, 2009, include the $100 increase, or $200 for the people covered under the current statutory structure. Additional revenue comes from the business license fee, as you see on the handout, from the provisions in A.B. 146. Effective October 1, 2009, in A.B. 146, the Secretary of State will take over the business license fee. Again, this was related to them being able to pick up the people that file with them, which again, we refer to the Title VII entities. What we mean by that is Title VII is the chapter of NRS where all the chapters for the different entities, suggest as corporations, LLPs, LLCs, are included. So we just refer to them as Title VII because that is easier than saying LLP and LLC. So, in A.B. 146, effective October 1, 2009, the business license fee, the current statutory construct, rolls over and goes under Title VII, so you are going to pick up the $200 as you would under normal situations but there are also provisions in A.B. 146 that require that if you file with the Secretary of State as a Title VII entity, you have a statutory liability to pay the $200 business license fee, because under the current law, if you file with the Secretary of State as a Title VII entity, you have to be physically doing business in the State of Nevada to pay the fee.

The Secretary of State, when they brought the business portal concept forward, and Assemblyman Oceguera can correct me if I am wrong as I go through this, but the thought process by the Secretary of State and others was that if you are filing here with the Secretary of State as a Title VII entity and taking protection of the state's laws for incorporating here, it does not matter whether you are physically here doing business. You are taking advantage of the state's business laws. Why shouldn't you be required to pay the business license fee, just like a Title VII entity that is actually doing business in here? That is what the provisions in A.B. 126 do. They require any entity that files with the Secretary of State to pay the business license fee. I apologize. I know that is a long answer but it is the easiest way to try and get it clearly explained.

ASSEMBLYMAN SETTELMEYER:

If you look at a business that theoretically has a $33 savings, once you calculate in MBT and the $100 additional, you will be paying $67 more for the small business. I am looking at the different effects. If they have to have a car, we are going to be putting a strain on some of these smaller businesses. I was just wondering if you had any breakdown on a business that makes $125,000. Do you have any breakdown on what all these taxes would be to a small business? Would it be an increase or decrease, considering that we changed their MBT?

RUSSELL GUINDON:

No, I don't have that analysis. The only thing that I can comment on is that if it were not for the two-tiered structure, then they would be paying the $200 plus the amount at the .63 percent rate versus paying the amount the .5 rate. But I do not have the stratification or analysis of the different business sizes and what they may be paying in taxes at each of those different stratifications. I apologize.

ASSEMBLYWOMAN MCCLAIN:

Thank you, Madam Chair. I think people need to realize that if you are paying MBT you are a business in Nevada or you wouldn't have a payroll tax. So, the additional business license fee is for the corporations that file and don't have a payroll presence in this state, but they are going to be required to pay that license fee now.

CHAIR BUCKLEY:

You know, what I really didn't fully realize until we got into this discussion was when I looked at some of the business license fees that the local governments charge. It is really interesting. In the City of Henderson, they charge on a gross receipts value. Not having served on the Taxation Committee, I was surprised at that. There are a couple of jurisdictions that do it throughout the state, so there are different ways of assessing a business license fee.

ASSEMBLYMAN CHRISTENSEN:
Thank you, Madam Chair. A question to what you were saying. Do you know if the state gives the authority to those municipalities to charge that tax you were referring to or do most of the municipalities, the large ones, have the latitude already in their code?

CHAIR BUCKLEY:
I think they have the latitude already but they are obviously doing it, so they have that statutory authority but I will ask the chair of the Taxation Committee or Russell to respond to that.

RUSSELL GUINDON:
It is my understanding that that was statutory authority that was provided for them to create the structure for a gross receipts tax and impose it by ordinance, I believe.

CHAIR BUCKLEY:
What year was that? Do you know?

RUSSELL GUINDON:
No, I do not. I apologize.

CHAIR BUCKLEY:
It has been in effect for quite a while.

ASSEMBLYMAN CHRISTENSEN:
That is the first time I have heard that, as well. It is good to know. Madam Chair, if I may, I have quick questions on a couple of different points if I can ask Mr. Guindon.

In regards to the business licensing fees, I think my colleague, Mr. Settelmeyer, asked the first question I had. As far as the GST, I wanted to make sure I understood so these numbers made sense. If someone purchases a new car in the first year, they are going to pay on the assessed value at 100 percent. In the second year, they pay 100 percent of that value. In the third year is when it drops off to 90 percent and then goes down each consecutive year by 10 percent.

RUSSELL GUINDON:
Actually, I may have misspoken if that is the information that you have written down. Under the current statute, it goes 100 percent, 85 percent, 75 percent, and then 10 percent less every year until you get down to 5 percent. So, at the end of nine years, you are down to 5 percent. That is the current statutory depreciation schedule for vehicles, not buses, trucks, or others. This proposal would just add 10 percent to every one of those, so, 100 percent, 95 percent, 85 percent, 75 percent, etcetera. When you write that out and look at it, it is basically, except for the first year which is obviously left at 100 percent, in the second year under current statute it would be 85 percent versus 95 percent, and in the third year at 75 percent now versus 85 percent. So, in the second year through ninth year, it is sliding the depreciation schedule over to the right and sliding it down one row.

ASSEMBLYMAN CHRISTENSEN:
And I am sure, Mr. Guindon, that you didn't misspeak. I just wrote it down wrong. The other question, from the last time that I saw you and Mr. Stevens sitting there, we were talking about Initiative Petition 1. I heard recently that the revenues, since IP 1 came up for a vote, were expected to change. I was curious if you would know off the top of your head what that change was.

RUSSELL GUINDON:
I do not remember off the top of my head. Maybe Mr. Stevens does. As to what the amount was that the Governor was including in the Executive Budget, for the provision of I.P. 1, because that is really sort of the reference point because that was the amount of money that was used to develop the Executive Budget. The Economic Forum is required under law to produce forecasts, under current law, so thus since I.P. 1 had been approved by the Nevada Legislature, the Economic Forum at their May 1, 2009, meeting actually produced a fiscal forecast which is part

of the May 1, 2009, revenue forecast that this body is using to produce the budget. That forecast is now for $104.7 million in Fiscal Year 2010 and $115.2 approximately in Fiscal Year 2011.

CHAIR BUCKLEY:
Russell, I think it was the change in the room tax projections since the Economic Forum, based on what we thought, about $30 over the biennium, lower?

MARK STEVENS, ASSEMBLY FISCAL ANALYST, FISCAL ANALYSIS DIVISION, LEGISLATIVE COUNSEL BUREAU:
If my memory is right, I think in the second year it was $152 million for I.P. 1.

CHAIR BUCKLEY:
Do you remember how much lower the projection was, based on the Economic Forum numbers?

MARK STEVENS:
I have that information across the street. I did not bring it with me, Madam Chair.

CHAIR BUCKLEY:
Okay, we will get that to you, Assemblyman Christensen.

ASSEMBLYMAN CHRISTENSEN:
That will be great. Finally, Madam Chair, I was just going to put on the record that the resident agent industry here in the state is a group that I have worked with through the years in the financial sector with trusts, etcetera. I do have a concern where we talk about raising these fees because when someone is looking for a good place to put their entity, where they do not operate in the state . . . we compete with South Dakota and Florida, who I believe a couple of years ago, when I last pulled numbers, had the highest number of registrations per year. There is Delaware, of course. We compete with these states. To my colleagues, I just wanted to say that it is certainly an area where we want to be hypersensitive, so that we don't easily scare people away.

CHAIR BUCKLEY:
Mr. Christensen, I am glad you brought that up because I was just thinking these entities aren't doing business in our state and all they do, basically, is try to use our business friendly laws. They choose to incorporate here but don't actively do business here. Why not charge them $200 for that privilege? If they aren't otherwise contributing to the economy, and we work hard to create corporate shields and all the things we have worked on over the years to become the Delaware of the west, why not at least charge them for all of the work that we have been doing to create a good regulatory environment.

ASSEMBLYMAN CHRISTENSEN:
Madam Chair, that is a great question. I have thought the same and the answer is simple. We are not quite the Delaware of the West. These are the exact types of entities that we want to attract. They do not use our roads. They are not here . . .

CHAIR BUCKLEY:
Yes, but it is $200.

ASSEMBLYMAN CHRISTENSEN:
If I can finish, they do not have their kids in our schools. This is basically because, just as you said, Madam Chair, we have created this business friendly environment through decades, and, you know, for this state being around for a long time. We have the ability to attract them like a magnet to where they'll incorporate here, hopefully. I know, in my line of work, I deal with a number of private equity funds and businesses who operate out of this state, but they are located or their incorporation or a number of their assets are registered here. They are actually looking at coming here. I think if we can get them here to begin with, then hopefully that continues, and we are able to attract them to where they do, actually, locate here. That is just my experience. Others may have a different opinion.

CHAIR BUCKLEY:
It just seems that with our business friendly laws at least they can help support our state. Especially, you know, because all the emails we got from folks complaining about the fee increase.

ASSEMBLYMAN CHRISTENSEN:
You got those, too?

CHAIR BUCKLEY:
I did get a couple. I was amazed at how many of them weren't from here. So, when I was emailing back about the crisis we are in and our schools, I found many of them had no idea because they just had no connection to Nevada whatsoever. I was a bit surprised at that.

ASSEMBLYMAN CHRISTENSEN:
That is a good question. I am done with my questioning, Madam Chair. Thank you.

CHAIR BUCKLEY:
Questions for staff? Assemblyman Gustavson.

ASSEMBLYMAN GUSTAVSON:
Thank you, Madam Chair. To just follow up on the last speaker from Clark County. As to raising the fees, I think that if maybe we lowered those fees we would get a lot more that would register in Nevada, and that would increase the revenues that are decreasing, getting more people to register their corporation . . .

CHAIR BUCKLEY:
My point was for folks who don't have a business here. If you lower the fee, what are you gaining?

ASSEMBLYMAN GUSTAVSON:
You are gaining more persons or companies incorporating in Nevada . . . for their business.

CHAIR BUCKLEY:
And what are they giving us?

ASSEMBLYMAN GUSTAVSON:
Their money. They give us more money. Anyway, I'll get to my question. My question was to staff, probably Russell. I was surprised, too, to hear that about 75 percent of our businesses are $250,000 or less gross payroll per year. That figure kind of amazed me, too. What I would like to know and what brings up another question in my mind is how many businesses are there? Do we have a number on that 75 percent? How many businesses are in Nevada that have a $250,000 payroll and how many businesses are there over that $250,000 payroll. I am just curious. I don't know the total number of businesses here.

CHAIR BUCKLEY:
Russell, do you have the calculations on that?

RUSSELL GUINDON:
Yes. I do have some information on that. I think one of the points I want to make clear here is that the information that I had, to analyze from the Department of Taxation, is actually taxpayers. So, a lot of those are businesses but some of them can be a very small business or a single person that is required under the law to file and pay unemployment insurance taxes, unless they are required to pay the MBT. So, with that, I am trying to see if I have the cumulative. In Fiscal Year 2008, based on the information from Taxation, there were approximately 58,421 taxpayers that were paying the Modified Business Tax on nonfinancial institutions. The number that was below $250,000 in annual taxable wages, as reported to the Department of Taxation was 43,132, which gets you approximately the 74 percent that was referenced.

ASSEMBLYMAN GUSTAVSON:
Thank you, I appreciate that. I know I had a couple of business licenses myself—manufacturer licenses and a life insurance license I let go because I wasn't really using it and did not want to hang onto it and pay the $100 a year fee. Thank you.

CHAIR BUCKLEY:
Other questions for our staff? Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. Some of this may have been asked and answered already, so I apologize. But you raised the question, as my colleague from Assembly District 13 did, about the room tax. We will go back and take a look at that, and when that review is taken, I am curious whether the method and manner in which the projections on that will be the same that is being used today for S.B. 429. Will the portal tax also be the same method and manner across the board, so it will be apples to apples. Accountants have strange ways of doing things occasionally.

RUSSELL GUINDON:
I'm not quite sure how to address that question, but let me take a shot at it. The Economic Forum is a statutory body that has the statutory requirement to produce a forecast on December 1 that the Governor uses to produce the Executive Budget, and then, on May 1, that the Legislature uses. That body listens to forecasts prepared by the Fiscal Analysis Division, staff from the Budget Office, staff from the Department of Taxation, and the Gaming Control Board, depending on the specific revenue source, as well as from an outside forecaster. Then they produce a consensus forecast based on the information received from these private sector business people and the forecasts presented to them. So, thus for the information for IP 1, the room tax, there were various forecasts prepared and presented to them. There was actually one representative from the MGM Mirage on the panel, with an idea about what is going on with the room tax, so the numbers that I gave you were the forecast prepared by that body. Now, with regard to the estimates that are in S.B. 429 for the business license fee, it's based on information that we get from the Department of Taxation. But then we calibrate any of the proposed rate or fee changes to the Economic Forum's May 1, 2009, forecast to be consistent with that forecast since that is the official forecast that this body has to use to prepare a legislatively approved budget. We try and tie any of the proposed tax increases to that. Similarly, then, for the Modified Business Tax and the Local School Support Tax, the tax changes and the numbers you see in the table are consistent with regard to being tied back to and calibrated off the Economic Forum's May 1, 2009, forecast. So, I hope that answers your question.

ASSEMBLYMAN HAMBRICK:
May I follow up on that, Madam Chair? So, the simple answer is no. Each tax is figured with a different method and manner, so we could have three different thought processes involved with each tax that we may be talking about, because if the people looking at it have different . . .

CHAIR BUCKLEY:
You know, let me take a stab at it. The Legislature enacted legislation to have an independent body project what the revenue is going to be for each tax. They do that right before session. The Governor constructs his budget based on that projection. Then they update it in May and then that is the projection that we are bound to use for the next two years. And they project each type of tax—room tax, modified business tax, sales tax—every one that there is. We make our adjustments and that is what we are required to use. And in calculating what the projections are going to be, they listen to different opinions—economist's views, our own staff—but then they independently make their own decisions and that's what we abide by. And based on, for example, the room tax—and I think we saw it across the board on all of the taxes—they projected the revenue downward. And that is why we ended up with an additional shortfall.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. Now if we can just explain it to all those who are listening to this program, too. Do you use Yellow Book (Government Auditing Standards) in the basic process?

RUSSELL GUINDON:
Do I use what?

ASSEMBLYMAN HAMBRICK:
The accountants . . . the CPA's have, at least on the federal side, the Yellow Book on how to do certain programs and come up with answers. In may be an improper form at this point, but they have their bible that they go by. It's called the Yellow Book.

RUSSELL GUINDON:
What you are referencing is more of an accounting construct. My degree is in economics and I have a field in econometrics, and so we have our own book that we use to produce forecasts, where we build econometric models and take into account the latest economic and socioeconomic information that we have, as well as the latest information that we can get from other analysts that do what I do for a living. And that information was taken into account by each of the forecasters for the forecasts that were prepared for the Economic Forum for their consideration. I am honest enough to admit that forecasting is sometimes more of an art than a science but there is some science behind the methodologies that are used to try and do the projections. Although I don't know that there is a bible that we use, because when you are predicting the future, you might want to use a bible, but I don't know how well it would come off, too.

CHAIR BUCKLEY:
I think we could all use the Bible, right now. Assemblyman Goedhart.

ASSEMBLYMAN GOEDHART:
Thank you, Madam Chair. I didn't know if this would be an appropriate time to make one or two comments for the record or if this is just for questions directed to the gentlemen up front?

CHAIR BUCKLEY:
You know, I think we can accept a comment or two because by the time bill comes over I really don't want to limit debate so if you want to make a couple of comments, now, I would be open to that. Let me just first ask if anyone has any questions. Does anyone have any questions for staff? Assemblyman Hardy.

ASSEMBLYMAN HARDY:
Thank you, Madam Chair. When I am looking at the business license fee, are we capturing more businesses in Title VII that we are using, such as independent contractors? Or is the only thing that we are doing in this proposal is using the same businesses, but increasing them from $100 to the $200?

RUSSELL GUINDON:
It is actually both, Assemblyman. If you look at the table titled Revenue Enhancements, you will see two separate rows listed for business license fees. The first one, as you can see out in the comments, although I apologize, they are pretty brief and succinct, I hope it provides enough description that you can see that first row is the estimate for the business license fee based on the current statutory structure. In the second row is the estimate of what would come from the additional $100 that would be imposed on the Title VII entities. I am hoping that addresses your question appropriately, Assemblyman.

CHAIR BUCKLEY:
And the original independent contractor language that was included in the bill draft considered by the Taxation Committee, that ended up having a number of technical problems? There were lots of questions about that and, ultimately, that was pulled from the final bill pending in the Senate, just because there wasn't enough time to consider all those questions. Is that right, Assemblywoman McClain? Yes. Okay.

RUSSELL GUINDON:

Madam Chair, if you would permit me, I think that there is one other issue because of the hearing that was held by Assemblywoman McClain and Senator Coffin as the Joint Taxation Committee on the Thursday prior and on last Saturday, so that some of these items had a chance to get vetted.

The original proposal toward the business license fee had the "by location" in it, and that has also been removed from the business license fee proposal. I thought I would take this opportunity to get that clarified on the record, Madam Chair.

CHAIR BUCKLEY:

Further questions of our staff? I don't see any more. Thank you very much. Is there anyone from the public who would like to provide testimony? Okay. Seeing none, I think what we will do is rise out of the Committee of the Whole. I will see if there is any more Order of Business 13. If there are not, maybe I will just open it up to Order of Business 15 and take Remarks from the Floor on the tax measure now.

On motion of Assemblyman Oceguera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:17 p.m.

Madam Speaker presiding.

Quorum present.

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 547, Amendment No. 925, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day sustained the Governor's veto of Assembly Bills Nos. 122, 257.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 547.

The following Senate amendment was read:

Amendment No. 925.

SUMMARY—Revises provisions governing the ~~[distribution of proceeds collected from fees that must be paid to reinstate]~~ **renewal of** the registration of a motor vehicle **.** ~~[in certain circumstances.]~~ (BDR 43-1289)

AN ACT relating to state financial administration; ~~[revising provisions governing the distribution of proceeds collected from fees that must be paid to reinstate the registration of a motor vehicle that has been suspended for failure to have proper insurance;]~~ revising provisions governing the renewal of the registration of a motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a fee of $250 to reinstate the registration of a motor vehicle that was suspended because the registered owner failed to have insurance on the date specified in the form for verification that was mailed to the owner, and for a fee of $50 for a registered owner of a dormant vehicle who cancelled or allowed the insurance coverage to expire before cancelling the registration of the vehicle. (NRS 482.480) The proceeds collected from the fees are deposited in the Account for Verification of Insurance and used to carry out the provisions of law relating to proof of insurance for motor vehicles. ~~[Section 1.5 of this bill revises the manner in which the money in the Account may be used so that it may be used, within the limits of legislative appropriation, only to pay for expenses related to the operation of the Department of Motor Vehicles. Section 2 of this bill repeals a provision which requires the State Controller to transfer annually any amount in the Account which exceeds $500,000 to the State Highway Fund. Section 1 of this bill reenacts the repealed provision effective July 1, 2011.]~~

Sections 1.3 and 1.7 of this bill revise provisions governing the renewal of **the** registration of motor vehicles ~~[.]~~ **to require, in relevant part, that a notification for the renewal of registration which is mailed to the holder of a certificate of registration must set forth certain information concerning: (1) the requirement to maintain motor vehicle liability insurance pursuant to NRS 485.185; and (2) any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.**

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

Section 1. ~~[Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]*~~ **(Deleted by amendment.)**

Sec. 1.3. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration ~~[an application]~~ ***a notification*** for renewal of registration for the following period of registration. The ~~[applications]~~ ***notifications*** must be mailed by the Department in sufficient time to allow all applicants to mail the ~~[applications]~~ ***notifications*** to the Department ***or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system*** and to receive new certificates of

registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the ~~[application]~~ ***notification*** to any agent or office of the Department.

2. ~~[An application:]~~ ***A notification:***

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➥ must include, if required, evidence of compliance with standards for control of emissions.

3. The Department shall ~~[insert in each application]~~ ***include with each notification*** mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant ~~[that,]~~ **:**

(1) That, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered ~~[.]~~ ***which must be provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State*** ~~[.]~~ ***and***

(2) Of any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 1.5. ~~[NRS 482.480 is hereby amended to read as follows:~~

~~482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:~~

~~1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.~~

~~2. Except as otherwise provided in subsection 3:~~

~~(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.~~

~~(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.~~

~~(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.~~

~~3. The fees specified in subsection 2 do not apply:~~

~~(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.~~

~~(b) To cars that are part of a fleet.~~

~~4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.~~

~~5. For each transfer of registration, a fee of $6 in addition to any other fees.~~

~~6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:~~

~~(a) A fee of $250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or~~

~~(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,~~

~~, both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account [must] *may only* be used [to carry out the provisions of NRS 485.313 to 485.318, inclusive.] *by the Department of Motor Vehicles, within the limits of legislative appropriation, to pay for expenses related to the operation of the Department.*~~

~~7. For every travel trailer, a fee for registration of $27.~~

~~8. For every permit for the operation of a golf cart, an annual fee of $10.~~

~~9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of $33.~~

~~10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.]~~ **(Deleted by amendment.)**

Sec. 1.7. NRS 485.137 is hereby amended to read as follows:

485.137 1. The department shall publish a leaflet which summarizes and explains the requirements and provisions of this chapter.

2. The department shall:

(a) Make copies of the leaflet available without charge to all licensed drivers in this State, to all public school pupils who are of driving age, and to the public.

(b) Cause a copy of the leaflet to be delivered to each applicant for a new registration of a vehicle.

~~[(c) Enclose a copy of the leaflet with each]~~ **[**~~application for a~~**]** ~~*[notification for*~~ ~~renewal of registration of a vehicle which is mailed to the applicant pursuant to law.~~**]**

Sec. 2. ~~[NRS 482.4805 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 3. 1. This section and sections 1.3 to 2, inclusive, of this act become effective on July 1, 2009.

2. Section 1 of this act becomes effective on July 1, 2011.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~482.4805 Transfer of money from Account for Verification of Insurance to State Highway Fund. On June 30 of each year, the State Controller shall transfer from the Account for Verification of Insurance created pursuant to NRS 482.480 to the State Highway Fund any amount in the account which exceeds $500,000.]~~

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 547.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 266.

The following Senate amendment was read:

Amendment No. 697.

AN ACT relating to lighters; prohibiting the sale of novelty lighters; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill prohibits the sale or distribution as a promotion of novelty lighters. This bill also provides a comprehensive definition of a "novelty lighter." This bill becomes effective on January 1, 2010.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person may not sell at retail, offer for retail sale or distribute for retail sale or promotion in this State a novelty lighter.

2. This section does not apply to the transportation of novelty lighters through this State or the storage of novelty lighters in a warehouse or distribution center in this State that is closed to the public for purposes of retail sales.

3. The Attorney General or any district attorney, on the request of the State Fire Marshal or on his own motion, may bring an action in any court of competent jurisdiction in the name of the State of Nevada to enjoin a violation of this section.

4. A person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than $500. No sentence of incarceration may be imposed.

5. As used in this section, "novelty lighter":

(a) Means a mechanical or electrical device which is typically used for lighting cigarettes, cigars or pipes that may operate on any fuel, including, without limitation, butane, isobutene or liquid fuel, and which:

(1) Is designed to resemble and reasonably does resemble a cartoon character, toy, gun, watch, musical instrument, vehicle, animal, food, beverage or other similar article [.] that does not resemble a standard disposable lighter; or

(2) Plays musical notes, has flashing lights or has [other similar entertaining features;] more than one button or function; and

(b) Does not include:

(1) A lighter manufactured before January 1, 1980;

(2) A lighter incapable of being fueled or lacking a device necessary to produce combustion or a flame;

(3) Any mechanical or electrical device primarily used to ignite fuel for fireplaces or for charcoal or gas grills; or

(4) Standard disposable lighters that are printed or decorated, including, without limitation, through the use of a heat shrinkable sleeve, with logos, labels, decals or artwork.

Sec. 2. This act becomes effective on January 1, 2010.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 266.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 281.

The following Senate amendment was read:

Amendment No. 766.

AN ACT relating to industrial insurance; **revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the closure of a claim;** creating an expedited appeals process for certain claims by police officers, firefighters and emergency medical attendants; **repealing provisions requiring the reduction of compensation by the amount of federal**

disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) Section 2 of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) Section 3 of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. Section 3 also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 6 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

Sections ~~[1]~~ 7 and ~~[2]~~ 8 of this bill authorize certain contested claims relating to certain occupational diseases of police officers, firefighters and emergency medical attendants to be submitted directly to an appeals officer, thereby bypassing the hearing officer to whom the contested claim would need to be submitted under existing law. (NRS 616C.315) **Section ~~[2]~~ 8** also requires that the appeals officer set a hearing date within 60 days after receiving a notice of any such contested claim. (NRS 616C.345) **Section ~~[3]~~**

9 of this bill requires that the appeals officer render a decision for any such contested claim within 15 days after certain specified events. (NRS 616C.360)

Section 11 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

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

Section 1. **NRS 616C.050 is hereby amended to read as follows:**

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~[7]~~ ***8*** of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. **NRS 616C.065 is hereby amended to read as follows:**

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~[4.]~~ ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~[5.]~~ ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~[4]~~ ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~[6.]~~ ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. **NRS 616C.090 is hereby amended to read as follows:**

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms

of the contract ***without the approval of the insurer*** if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. ***If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.***

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~[5.]~~ ***6.*** The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~[6.]~~ ***7.*** An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~[7.]~~ ***8.*** The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 ~~, [and]~~ 3 ***and 4*** to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. **NRS 616C.230 is hereby amended to read as follows:**

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS ***50.310,*** 50.315 ***or 50.320*** is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➥ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. **NRS 616C.232 is hereby amended to read as follows:**

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation ***for temporary total disability*** to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer.

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.

Sec. 6. **NRS 616C.235 is hereby amended to read as follows:**

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with

the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

~~[Section 1.]~~ ***Sec. 7.*** NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer's authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

(a) A written determination of an insurer; or

(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,

➥ may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and, except as otherwise provided in subsections 4 and 5, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. The period specified in subsection 3 within which a request for a hearing must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

6. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

7. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

8. A claimant may, with regard to a contested claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 as described in subsection 2 of NRS 616C.345, submit the contested claim directly to an appeals officer pursuant to subsection 2 of NRS 616C.345 without the agreement of any other party.

~~[Sec. 2.]~~ ***Sec. 8.*** NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. ***A claimant aggrieved by a written determination of the denial of a claim, in whole or in part, by an insurer, or the failure of an insurer to respond in writing within 30 days to a written request of the claimant mailed to the insurer, concerning a claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 may file a notice of a contested claim with an appeals officer. The notice must include the information required pursuant to subsection 3 and, except as otherwise provided in subsections 9 and 11, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond in writing to a written request for a determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request. The insurer shall provide, without cost, the forms necessary to file a notice of a contested claim to any person who requests them.***

3. A hearing must not be scheduled until the following information is provided to the appeals officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

~~[3.]~~ ***4.*** If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:

(a) A final determination was rendered pursuant to that procedure; or

(b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,

➥ any party to the dispute may, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or his dependent, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically

stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

~~[5.]~~ ***6.*** Except as otherwise provided in subsections ~~[2 and 6,]~~ ***3 and 7,*** within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220, 616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection 7 of NRS 616C.315, the appeals officer shall:

(a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.

~~[6. A]~~

7. Except as otherwise provided in subsection 12, a request to schedule the hearing for a date and time which is:

(a) Within 60 days after the receipt of the notice of appeal or contested claim; or

(b) More than 90 days after the receipt of the notice or claim,

➥ may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

~~[7. An]~~

8. An appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

~~[8.]~~ ***9.*** The period specified in subsection 1 ***, 2*** or ~~[3]~~ ***4*** within which a notice of appeal ***or a notice of a contested claim*** must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

~~[9.]~~ ***10.*** Failure to file a notice of appeal within the period specified in subsection 1 or ~~[3]~~ ***4*** may be excused if the party aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

11. Failure to file a notice of a contested claim within the period specified in subsection 2 may be excused if the claimant shows by a preponderance of the evidence that he did not receive the notice of the

determination and the forms necessary to file the notice. The claimant or employer shall notify the insurer of a change of address.

12. Within 10 days after receiving a notice of a contested claim pursuant to subsection 2, the appeals officer shall:

(a) Schedule a hearing on the merits of the contested claim for a date and time within 60 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents within 10 days after scheduling the hearing.

➥ The scheduled date must allow sufficient time for full disclosure, exchange and examination of medical and other relevant information. A party may not introduce information at the hearing which was not previously disclosed to the other parties unless all parties agree to the introduction.

~~[Sec. 3.]~~ ***Sec. 9.*** NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to

NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal ***or contested case*** or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. ***The appeals officer shall render his decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:***

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

➥ unless both parties to the contested claim agree to a later date.

9. The appeals officer may affirm, modify or reverse any decision made by ~~[the]~~ ***a*** hearing officer and issue any necessary and proper order to give effect to his decision.

Sec. 10. **NRS 616C.475 is hereby amended to read as follows:**

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within

14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 ***or 4*** of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 11. **NRS 616C.430 is hereby repealed.**

Sec. 12. **1. This section and sections 1 to 6, inclusive, 10 and 11 of this act become effective on July 1, 2009.**

2. Sections 7, 8 and 9 of this act become effective on October 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

➥ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

➥ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 281.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Smith moved that the Assembly do not recede from its action on Senate Bill No. 305, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Parnell, Mastroluca, and Hardy as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 305.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:30 p.m.

ASSEMBLY IN SESSION

At 3:34 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Conklin moved that the Assembly resolve itself into a Committee of the Whole.
Motion carried.

IN COMMITTEE OF THE WHOLE

Assemblywoman Buckley presiding.
Quorum present.

Additional revenue for the provision of governmental services considered.

CHAIR BUCKLEY:

Well, the Senate has resolved its differences. They are voting on the bill right now, and it's on its way here. We had one person who wanted to testify, and because I run a tight ship, I missed him. So, Monte, if you want to come down, we would be happy to take your testimony now. I apologize that I missed you earlier.

MONTE MILLER:

My name is Monte Miller, and I am a small businessman in Las Vegas. I employ 12 people. I am here to give my opinion to you all about this humongous tax bill that you're about to vote on. It is a billion dollars plus with the room tax, and the doubling of the Modified Business Tax. I just want to share ideas with you from a businessman's standpoint, which I know some of you also are. Many of you, obviously, know business people that put men and women to work. I'm an economist and, although I don't do business as an economist, I was educated as an economist in this university system.

A businessman needs resources and a product to create jobs. The businessmen in this country and in this state are having the worst time since the Great Depression. This news is nothing new. You've been reading this in the newspapers and I share it with you because I'm on the line, the firing line. They don't have the money to pay more taxes. This is what I'm told. I'm in business organizations. I'm a chamber member. They don't have the money to pay more taxes, and what we want them to do is to have the money to hire more people. If you hire more people, you create more jobs. If you put a man or women to work they can help their families and provide for their families.

Forgive me. I don't mean to be simple about this or to talk down about this. It is a simple reality that creating jobs is the most important thing that a man or woman can do to create tax revenue. You take your capital, you put it to work, you sell a product or service, you create jobs and those jobs give prosperity to families to take care of themselves.

There is room for government. Government provides essential services, important ones, with education being the most important. Public safety and other health and human services—those are all important, but we're out of whack here. We are in a recession. We are growing government in Nevada faster than population and inflation growth, which should be the measurement of taxation. I'm not against taxation as a businessman. I believe it should be measured in a sensible way, but as you've heard in this body and in committees, your government, this government, our government is growing faster than inflation and population

growth. That means that you are taking more from the private sectors. There is less to invest, and there are less jobs to create and less men and women to put to work and to take care of their families.

I know what the numbers are. I know what the probability of this tax bill lies this afternoon, but I think it is important for you to hear this perspective. I wish there were a hundred businessmen lined up here to talk to you all, to tell you that this is a sad, sad state of affairs. It is sad. Thank you.

CHAIR BUCKLEY:
Thank you, Monte. We appreciate you being with us today. Assemblyman Settelmeyer?

ASSEMBLYMAN SETTELMEYER:
Thank you, Madam Chair. I have a question for Mr. Miller. I, myself, am concerned. Some states have increased cigarette taxes only to find out that everyone starts to buy them online and do not pay the taxes. I'm just curious what your feelings are. I think we are going to have lower than anticipated revenues from the numbers that we are seeing, because of people who either start to pay their employees in cash and not give them health insurance so they can avoid paying the payroll tax, or they could be bartering for stuff so they don't have to pay the sales tax. I'm just curious about your thoughts. If this passes, are we going to start seeing lower than anticipated revenues?

MONTE MILLER:
There are a lot of ifs and there are a lot of crosscurrents here. If the economy stays flat or gets worse, this is going to hurt more. If everything stays the same as today, there is a good reason to believe that you will collect fewer taxes. Taxes are paid by people. Taxes are paid by individuals. The individual paying the tax today is the businessman or the employee, not the consumer. You can't reprice your service or your product today and pass taxes on to the consumer. So it's the stockholder or business owner or the employee—those three are the three people that pay taxes. So, yes, this could very well decrease the amount of revenue our government collects, because it could cut benefits. The repercussion of less benefits and plans, etcetera, is that it could cut employment. The other taxes you are talking about in the billion dollar tax increase, including cigarettes, including this tax on business licenses, and this business license tax of $100 to $200 . . . you know, my customers don't have a problem paying that $200 dollars, but they are large companies. In the business of economics this is called elasticity, and if you go from $100 to $200 you are going to find out the elasticity of this price, and you are going to collect less income on this. I feel very strongly about that. You are going to collect less than the $50 or $60 million that is estimated.

CHAIR BUCKLEY:
Assemblyman Hambrick.

ASSEMBLYMAN HAMBRICK:
Thank you, Madam Chair. With your background and experience in the business community, what effect would this potentially have on either hiring or reducing the number of employees that a business may have?

MONTE MILLER:
Well, Assemblyman, I think it is not going to increase employment, because you are taking more dollars. You are increasing the cost of doing business for existing employees. That's going to come out of the employees' pockets, in lower wages or less employment or less profit. And there is not a lot of profit going around today. Businessmen are not making a lot of money. I think it is particularly true with the big companies on the Strip. They know what this is going to cost and I know that they are on the other side of this issue, but it is still factored in. They know they will have to make more money or they will have to cut back. So I believe it will cut back employment in this state.

CHAIR BUCKLEY:

Thank you, Mr. Miller, we appreciate your testimony. You were the only witness that signed in, so thank you.

On motion of Assemblyman Oceguera, the Committee did rise and report back to the Assembly.

ASSEMBLY IN SESSION

At 3:44 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

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

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 429.

Bill read.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, bill considered engrossed, declared an emergency measure under the Constitution and placed on third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 429.

Bill read third time.

Remarks by Assemblymen Goedhart, Cobb, Conklin, Gansert, Anderson, Carpenter, Gustavson, Pierce, Stewart, Hambrick, Settelmeyer, Mastroluca, Christensen, Spiegel, Goicoechea, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I was surprised to see how many emails I got. I, personally, thought, "It is $100 to $200. It is a doubling." But there must be more of a reason why I got 800 emails on that. What I am seeing, though, is a lot of people out there, as small private business people, have all of their own capital—a lot of times, all of their assets—on the line. They may not have a 401K. They may not have a pension plan. They only have the value of those assets—gone down in value—and are dipping into cash reserves. They are now giving and are actually working every day for a loss. I know this from personal experience. I have my own business and every day I go to work, I am worth a few thousand dollars less than I was the day before. A lot of these people are actually pulling money out of their pockets, out of their bank accounts, wherever they can get it, just to keep their employees working. To them, this just looks like kind of a slap in the face—that we really do not understand the depth of the impact

that this economic, almost depression, is having upon them. So I think that is one statement I would like to make.

Also, we came out with some economic indicators for the country. California led the nation in job losses for the month of April. They, by the way, have some of the highest taxes and the most taxes. If we look at a book called *Rich States Poor States*, the states with the highest tax burdens and the most taxes, such as California, New York, and New Jersey, and some of the rust belt states—they call them the blue states—but they are actually rapidly losing jobs because there is an outflow of migration. It seems like the states with some of the best governments, where we keep the cost and burden of government reasonable, are attracting more economic growth, which then translates into more economic opportunity for the residents and the working families who live there. So I would like to go on record saying that while the needs of this state are very important, I just do not think this is the right time for us to be exploring additional new and increased taxes. I appreciate the opportunity of being able to make that comment for the record. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

With the permission of the body, I would like to say a few words about the package. There is no doubt that we are in an economic recession. There is no doubt that our business community is hurting. Two years ago we never thought we would be in this position. We thought gaming was recession proof. We were riding high. Businesses were doing great with companies financing expansions mostly by accumulating debt to do so and going out perhaps even further than they should have because we were in the midst of a boom. It all came crashing down, fueled in large measure by greed in the housing industry. Folks deciding that they would lend to people regardless of ability to repay. They put people in adjustable-rate mortgages that they could not afford. When the whole bubble collapsed, all of us were the victims; our businesses and us as individuals, who have watched our property values plummet and our investment in our homes plummet. That is where we are.

What do we do as a state? Our tax structure is overly reliant on gaming and sales tax. When gaming does well and tourism is booming, we're fine; over 60 percent of our revenue comes from sales and gaming. But when something happens, we have nothing else to rely on. It's like putting all of your investments in one area instead of diversifying. So businesses are cutting back. People are upside down on their homes. Consumer confidence has sunk like a stone so people are not coming to vacation in Las Vegas as much. Our state is fueled by and we depend on the success of Las Vegas, statewide. So what do we see? A 44 percent drop in revenue. We can't cut our school funding, which is 55 percent of our budget, by 44 percent. The next largest category is health and human services. We are required by the federal government to fund the majority of the health and human services budget. It's Medicaid. It is a 50/50 required match. Our costs are through the roof because people don't have health insurance, because they have lost their jobs. We can't turn that switch off. We are required to fund it. The last major category is public safety, prisons, parole and probation. We can't let them out because we are in a recession. We can't cut down the health and human services caseload, and we can't cut education by 44 percent. We have two options. We can take the extreme approach and just say, "Sorry," and trot out the platitudes, "Government has to live within its means," and, "No new taxes," or we can say, "We have to face the reality of our budget." When 55 percent of your budget is education, you can't cut that by 44 percent. You can't let the prisoners out. This body and the money committee said, "Alright, we know we're in the worse recession ever. We know we can't go to the business community and ask them to pay one more dime unless we're willing to say we're cutting." So we started the Ways and Means Committee. Republicans worked next to Democrats, senators worked next to Assembly members, and we went through a Zero-Based Budgeting process. We cut. Some days it was hard. We cut medication clinic budgets and education. We cut 40 percent of the training centers for teachers. We cut the entire remediation account that helps kids in summer school classes. We cut salaries by 4 percent. We froze every merit-pay increase across the board. We cut longevity pay for state employees. We cut. And we agreed in this body, Republican and Democrat, unanimously, on that Ways and Means Committee, on this budget. Sure, there was one account or two where people said if I was king

or queen I wouldn't have that in there, but we worked together. The Governor cut out every rural mental health clinic. Republicans and Democrats sat side-by-side and said we can do better. We cut the funding significantly, almost by half, but we kept the clinics. We required them to operate more efficiently and to share staff in some cases, and to look at telemedicine. We created a reformed process and saved money, and yet we're still going to save lives. That is an amazing result. We looked at the juvenile justice budget. Instead of cutting all the prison beds for juveniles and the supervision for them in the community, we said, "We have to pick one or the other." You can't cut the beds and the supervision, and that's how we closed that budget. We went account by account and asked, "What must we cut, because we have to cut close to a billion dollars? What must we restore?" And after we did that and agreed to it, we then began reaching out to the business community. Our message was, "We know times have never been tougher for the business community. We know that. There are layoffs and losses. We know that." But we asked, "What do we do? We have lost 44 percent of our revenue." I was amazed at the result. Most of them said, "You have to show some balance. You can't do one or the other. You can't raise taxes by 44 percent. It would be irresponsible. And you can't cut by 44 percent." So that's what is contained in Senate Bill 429. It is a balance.

Now, there are the components. It is interesting working with people from all over the state—different parties and different perspectives. Some people wanted a 100 percent sales tax. Well, we ran into some problems with that. There were many folks who said, "Sales tax? It is the most regressive of all taxes." In Clark County, we are almost near 8 percent. Poor people pay more. Other people said, "That is what my constituents support the best, because they think everybody pays a little bit of it. And you don't notice it much." Some people asked, "How can you institute more of a sales tax when our budget already relies on 60 percent from sales and gaming?" Moody's has just commented today, in evaluating our investment rating, that we are overly reliant on sales taxes. So, what did we do? We acted as Nevadans. We put our state first and we said, "We are going to have to compromise."

I know opinions are running strong and some people hate the business component of this. Some people hate the sales tax component of this. Some people are furious because they think that some industries could afford more and they didn't get in the bill at all. We all know that if you are a legislator, you don't get your way all the time. The greatness of our democracy is that we come together and we bring our unique perspectives, even when they drive us nuts, and we have to have two-thirds agree. That is the proposal we will be considering assuming, the Senate ever gets their act together.

So I want to say to my colleagues who created this budget in good faith—thank you. We did a good job. And while I know I think the majority of you would create the revenue mechanisms differently if you were the sole person that was needed to enact this legislation, we have an opportunity now to put our state first, and to decide whether we want the vision of our state to be a closure of UNR or UNLV; a 36 percent cut to every community college; a $690 million cut to K-12; cutting children off Nevada Check-Up and pregnant women off of health insurance; cutting autistic children off their treatment; closing a prison while spending hundreds of millions of dollars to open another one; or whether we choose a different vision, to have our state not hurt ourselves in the long run by being only concerned about the short run.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I think that, right now, Nevada is facing probably one of the most unprecedented economic downturns in its modern history. People are unemployed, or very interestingly, are underemployed in many ways. They are facing potential foreclosure and are worried about putting basic necessities on the table for their families. On the same day that it was announced that our unemployment rate has climbed even higher into the double digits, I don't think it is the right response of the Nevada Legislature to increase the overall size of government with what is, in the overall scheme of things, the largest tax increase in Nevada State history.

It is an interesting perspective from the private sector to bring forward here, to show the direct effect between raising a tax—and it depends on what type of tax you are talking about—and then the effect that tax has on that business, and therefore, the effect that it has on the employees of that business. A payroll tax is going to have a direct effect on overall

employment, and not just in terms of getting people back to work, which our constituents desperately want—they want to go back to work—but also on those who are currently working and are going to lose jobs. I know this first hand. Our business is down tremendously. We have laid off roughly 50 percent of our workforce. It's a very personal situation in a closely held business like that. The best thing that we can do for people who are potentially unemployed, who are working less, who are working for less, who are paying more for their health care benefits, who are receiving less subsidy on those health care benefits, who no longer have any type of 401K subsidy or matching, is not to increase their taxes; is not to increase payroll taxes and then have them lose their jobs. That is going to be a killer for any type of recovery in our economy. I think that we really need to look at how the private sector works, how they see the economic downturn and react to it. They tighten their belts. They have to let people go. They have to stop subsidizing things. They have to cut back on pay. That's what you do to survive. We cannot add to the burden they are facing right now and expect to see a turnaround in our economy. Thank you.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. We have heard a lot today about how families are struggling in our community. People are out of work, their wages may be down—times are tough. Times are tough for all of us—that's true. It is also true that those of us in our body, in this body, take our responsibility to this state and its people very seriously because the State of Nevada is also a family—it's our family. Like all of us are brothers and sisters and all the people who live in this state are our children. We watch over them. We look after them. We have a responsibility to do so, like each and every member in this body has a family and a responsibility to look over them. This family has tightened its belt. It has tightened this belt painfully, but we have done it together, as many have already said. However, we have a moral obligation to our family. A moral obligation to provide them with essential services they expect from state government. In tough times like these, the tough times we are experiencing now, that responsibility does not go away. When tough times in a family hit, you don't kick your children out on the street, you take care of them. You do what is necessary. I implore you today—we can not kick our children out on the street alone, unfed, unclothed, uneducated, or without access to health care or justice. That is what this budget and revenue package is all about, fulfilling our responsibility to our state and our families. I urge your support.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. First, I want to thank this body. I want to thank this body for, in a bipartisan manner, examining the budget and the needs of the state, and working to determine how to fund them. I appreciate that our caucus has been part of this discussion, given the significant challenges that we faced. I would also like to acknowledge my caucus. Our caucus is diverse. We have members who represent every corner of the state and from all walks of life. That is what makes us strong. We internally debated Senate Bill 429 and have different opinions and I respect those opinions. Some of the members of our caucus have supported some new revenues. Some supported the room tax and some supported the implementation of the business portal. While a portion of our caucus has supported new taxes, some do not.

When we looked at the bill before us today, the problem that we found was the weight that was placed on business. We believe that it is detrimental to substantially increase business taxes at this point and time. If you look at all the business taxes that are in that bill, they are more than $400 million. The average wage in this state is about $40, 0000; given that, we potentially could lose 10,000 thousand jobs. I do not think any Nevadans can afford to lose jobs. So while some of our caucus members agreed that we would support some taxes, we are not able to support the package as presented before us today. Thank you.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I rise in support of Senate Bill 429. As a former government teacher and social studies teacher, who has been involved in that process for 33 years, and in this one for 20, I am very cognizant, I think, of the economic questions. I heard one of our speakers this afternoon tell us that he was a trained economist and a small business man. I appreciated his insight. As a political scientist and historian, I am also very, very cognizant of what goes on.

The Legislature has a critical and historic role in ensuring the economic stability and vitality of our state. I take that responsibility greatly in each legislative session.

We are in an economic crisis worse than we can ever imagine. Our responsibility, as legislators, has been to determine how to deal with the tragedy of the current situation without further hurting our economy or jeopardizing our hope for an economic recovery. This is not an easy task, nor has it ever been. The process has been a delicate balance of cuts and revenue increases. This is a lean, bare budget, as it always has been in this state. We have made significant cuts, but we could not cut anymore without destroying education, health care, and public safety. As we developed this revenue package, we were sensitive to the needs to protect families, and small businesses, and those already struggling to hang on.

It is important to understand the impact of these decisions on our economy. We could not simply rely on sales tax, not only because it is a regressive tax, but because heavy reliance on the sales tax could negatively impact our state's bond rating. I believe we are all very, very aware of that. People also lose sight of the impact of deep cuts on our economy and its ability to recover. John Maynard Keynes—and economist like him—tells us that while taxes, of course, have an impact on our economy—cutting state spending with layoffs, and salary cuts, and cancelled contracts with vendors has an equal impact. The people whose salaries and benefits we are cutting are taxpayers with mortgages, health care needs, and children they wish to send to college and to school—the issues they care about. When people have less money to spend it perpetuates our economic downturn. This package strikes a needed balance between cuts and revenue. I again urge your support.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I guess I need to make my anticlimactic speech now. Senate Bill 429—this is a tough vote. It might be the toughest one I have to make in my career. If my career was not at an end, this might bring me to and end. Hopefully not. The reason why I will vote the way I will—I have been thinking about this for a long time—is when the Governor came out with his budget, I could not see how it would work. I have worked for a long time to improve our schools and I have worked especially extra hard to try to get class size reduction in Elko County. I was able to do that and I sure as the devil did not want that to get shot down when they had to go to 40 to 1 or some such a thing. I had a couple of kids go to UNR and graduated and I did not want to shut UNR down. I sure as the devil did not want to shut Great Basin College down because so many people have worked so long and so hard to get a community college that works.

Out in the rurals, honor camps are most important. This last summer, when I was on that committee, our director of prisons kept saying, "Well, we have to shut Pioche. And Tonopah is going to go." I would get all kinds of calls from Wells and Carlin—"They're going to shut us down." That did not happen, but we had to have some funds to keep that from happening.

In mental health, I know people in my community, and if you do not keep them on those medicines, they are going to go bonkers on you. We were able to save those health clinics. I want to thank my friend from Reno for that.

I got a lot of retirees in my area. One, especially, lives across the street. If we took his retirement away, he would probably have to move in with me and Roseanne. I don't know if that would be too good or not. We need to take care of those people. I have been thinking that a lot of things that we need were funded at bare bones in this budget. Maybe I would have done things different. I may have cut here and tried to cut there, but I want to thank my four friends on the Ways and Means Committee for doing a good job.

We have a breakfast here every morning—me and my cowboy friend—and what gave me strength today to make this vote was that this morning he cooked up some special cornmeal. Have you ever had fried cornmeal and bacon? You can just about do anything if you eat that in the morning. Well, anyway, every morning we have breakfast. My friend Pete and my other friend, John Marvel, who has already left me, would talk about the budget. I have really given Pete the going over, and kept him on his toes. Dr. Hardy, I don't know quite what to say about him. He always has these ideas—he really thinks way down deep—a lot deeper than I do. He always comes up with good ideas. He and my friend Heidi, they have really worked on this budget. Maybe it could have been cut more—I don't know. I think that the main thing is I got

what my area needs. My kids got a heck of an education—they went to all these high tone schools and they are doing quite well. My grandkids, I think, are getting a good education. If there is anything wrong with our educational system I think it is because the parents don't do their job. But I better get back on the subject here.

I couldn't ask my other colleagues to carry the entire load for me, and I needed to help them. I really thought a lot about this. I talked to my wife and my friends. I had already made up my mind, yesterday, that I was going to vote for this. I talked to my wife, but most of all, I talked to the Lord and the Lord said, "Man, this is the thing to do and tonight you are going to sleep and you are going to sleep well." So that is what I did. Thank you very much.

ASSEMBLYMAN GUSTAVSON:

Thank you, Madam Speaker. Thank you for letting me follow an act like that. I rise in opposition to Senate Bill 429. I would like to mention a few things that were not brought up during the discussion we had prior to the vote.

By passing this bill, in my opinion, we are not going to create more jobs by taking more money away from the businesses that provide those jobs. I am more concerned about my constituents who are out of work than I am about maintaining the size of government handouts. Everybody is having a difficult time paying their bills—we can not expect to take more money from them now. No country or state has ever taxed itself into prosperity. Even JFK knew better than to raise taxes during a recession. Lowering taxes put more money back into the economy many times over. Most of the time, when you buy a product, that money goes back into the economy at least seven times. So, I would much rather get that money by lowering taxes instead of raising the taxes—it puts more money in the economy and helps stimulate the economy. I had a few other remarks on the bill but it is a little late now; but for the record, I wanted to get some comments out there.

ASSEMBLYWOMAN PIERCE:

Thank you, Madam Speaker. One of the things that I wanted to talk about is the fact that we are not just here today because of the bad economy. We are also here because, for a very long time in this state, we have under-funded everything. We have done it for decades. Every time 100,000 people moved here, we provided enough services for 25,000. When another 100,000 people move here, we provided services for another 25,000. It did not appear that way because the budgets went up a little bit because the boom happened. We were a boomtown for 20 years and it hid the fact that some folks have misstated something a couple of times in the last couple of days.

We have a thing here that most of us call "baby TASC (Tax and Spending Control)." It is a law passed in 1978 that says a state budget cannot grow by more than the rate of growth and inflation. We have never hit the limit in 30 years. When I was here in 2003 and we were looking at the biggest tax increase in history, one of the things I knew was that in 2003 we were one of ten states whose state government had not kept up with growth and inflation for a decade. We have the smallest government in the country, not just now, but we have for decades. We have the fewest public servants of any place in the country. That makes no sense when you are talking about economies of scale. It just makes no sense. You talk about economies of scale and the fact is the place with the smallest number of employees should be a big state with lots of programs. So being here today was inevitable. Inevitably, this insane frugality, for me, was eventually going to meet and run head on with a really bad economy and we were going to be up that creek without a paddle. This day was inevitable.

We have talked a lot in the last six months about the structure of our tax system. As we know in taxation, we have been talking about that for 30 years—all those studies, studies, studies. When I came here this session I was really excited that we were going to make some progress on that structure. We were going to start to fix this mess we have made over a couple of decades. Today, we did not fix it, and that is a huge disappointment to me. I voted for it and I would do it again if we had to do it again; but I am disappointed. I am disappointed that we made a tax system that is already regressive. We have made it more regressive and we did not make progress on doing some of things that the last ten studies have told us that we needed to do. We did what we needed to do and I hope that we'll come back in two years and try again to see if we

can turn this ship of state in a direction that is not just failure and set us in a direction that is not the bottom of all the good lists and the top of all the bad ones. Thank you, Madam Speaker.

ASSEMBLYMAN HAMBRICK:

Thank you, Madam Speaker. I feel somewhat awkward standing up because of my colleague from Assembly District 33. I am privileged to be able to stand in his shadow some days. You made a very principled decision, although I would respectfully disagree with that decision, but it was very principled, and I understand that.

I had hoped to be able to ask some questions from a member of this body but I am not sure who that member would be, because I am thinking of, possibly, a make-believe city of 140,000—the number of people who are unemployed. I would have liked to have gotten their input—on how the unemployed feel, those that were in the casinos and the tourist industry last month or the month before and were told that their jobs were being eliminated. My colleague from District 22 is right. There was no easy choice today. I think we will find out in the months, hopefully not years, to come if today's decision was good. We had a witness in the well earlier that made some predictions. I sincerely hope that he was wrong, but I fear he was not. Thank you Madam Speaker.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. It was a very difficult decision to make. All of us had to come to our own terms, to figure out what we wanted to do. Myself, I looked at my constituents. Some of them, they receive benefits. I also looked at the ones that are paying for those benefits. But then I looked at what we need to do to recover as a state. And when I looked at . . . basically, we doubled the payroll tax. Or we were looking, at that time, in almost doubling the payroll tax. That type of a tax hike is really a tax on the number of employees that a business has. In looking at the fact that we have 10 percent unemployment across the state, the highest it has been since 1983—and Lyon County is at 15 percent—I am worried. I don't ever want to see 20 percent.

And so, for myself, I just could not vote for anything that was so, in my opinion, draconian on the payroll tax and that would so impact the businesses and may cause more individuals to become unemployed. On that aspect, it made me look at it and say, "I could not vote for that." But then I thought, "You know what? I probably could if that is what the people wanted." I started looking at my constituents, and interestingly enough, I have quite a few from California, even though I am one of only a handful of native Nevadans. My community, Douglas County, is made up of a lot of individuals who have moved here from California. That is where they come from, probably about 70 percent of them. So I actually looked at California, to their special election, where they said by 65 percent, "No. No more taxes. Live within your means." That's why I am going to urge everyone to vote no on the bill. Thank you.

ASSEMBLYWOMAN MASTROLUCA:

Thank you, Madam Speaker. As a freshman, this is the hardest decision that I ever thought I would have to make. Having to sit here and push that button will be the hardest thing I have done in the last 18 months of my life. It was easier to decide to run. It was easier to convince my family that this was a good idea. It was easier to move away from home for four months than to push that button. But I know that tomorrow morning I can get up and look in the mirror and know that I made the right choice, because I know that the children in this state will receive the health care that they need. I know that my children will have the opportunity to go to colleges that will still exist. I admire those who had to make those difficult choices. I admire those who made the ones that they feel comfortable that they can live with. Thank you for this opportunity.

ASSEMBLYMAN CHRISTENSEN:

Thank you, Madam Speaker. I don't think anyone would argue . . . anyone in this body, anyone who knows you . . . no one would argue that you are a very smart woman, a very smart Speaker.

This vote today, as I shared some comments yesterday, is one that has weighed very heavily on me. My guess is, based on how the vote will go down . . . I just want to let everyone know I

am not expecting a standing ovation when I'm done. But I will say that there will probably be some that will pick apart what I feel and what I want to share, and this is why. When I came here in February, after hearing all the news reports, sitting in the school district meetings, and listening to what parents had to say, I wholeheartedly came here thinking, "You know what? I'm probably going to have to vote for taxes, a tax—something." That was my expectation. During the session, I had been able to go back to Las Vegas, go out with friends, go to church, go to sports gatherings, and what I saw absolutely terrified me. It scared me. I saw more and more friends unemployed; more and more office space for lease that used to house someone's business. I saw families losing their homes to foreclosure. It is sad. It is very heartbreaking, especially when we are close to these people. All of us know people in this position.

So, as the body passes Senate Bill 429, and I would also include IP 1, we are looking at almost a billion dollar tax increase. I know with all the recent news about the federal government that doesn't sound like much, but coming out of this state's small economy, that's a chunk. I do believe that this tax was ill timed, and I believe, based on my own personal experience, that it is morally wrong. Winston Churchill said, "A nation that tries to tax its way to prosperity is like a man standing in a bucket trying to lift himself out by the handle." I have been feeling that and seeing that in my mind all day long and all session long.

I shared with my colleagues this morning that if unemployment were a city in Nevada, it would be the fifth largest city in our state. So, here we are, and as we have experienced tough decisions, I want to say that I realize that this is tough. I know how tough it was for our colleague from Elko, who I can say we all love. Who doesn't love the Assemblyman from Elko? I know that this was tough. All of us had to vote our conscience and represent the people who put us in office.

Recently, one of my colleagues said that the hardest part is coming up with the money and raising taxes. I know that is what this person felt in their heart. I disagree. From my experience, I will tell you that it is really, really hard to say no. There are so many worthy causes, especially when money is scarce. I know this from experience. This session I voted no a number of times, and it has really been a challenge, especially after I hear my colleagues floor speeches. I will say that people do treat me differently sometimes, but I realize that is just part of what we experience here.

Madam Speaker, in your comments, I just wanted to say that, with all due respect, I don't see the comment that I made yesterday—that it's a good idea to live within our means—as a platitude. For me, that's like arguing with gravity. I will admit that while I am not the businessman I am in my dreams, I do know a little bit about business, small and large—companies that I have run and companies that I have been close to. Some have seen a lot of success and another company that I was a part of, I ran into the ground. I learned a lot as I went. But in closing, I want to share that . . . really what I want to do is, in thinking of all of those unemployed, all of those Nevada families that are having a hard, hard time; that in my opinion, we just made life a little more difficult for those masses and for those businesses that have to write that check—the small business owners that have to write that check every single month before they get to take money home to their families. For those people and to those people I want to apologize for the action.

Madam Speaker requested the privilege of the floor for the purpose of making the following remarks:

Okay. You are out of line. You are done. You don't get to apologize on behalf of another member. You are out of order.

ASSEMBLYMAN CHRISTENSEN:

That is why I said, "With all due respect . . ."

Madam Speaker requested the privilege of the floor for the purpose of making the following remarks:

You are out of order.

ASSEMBLYMAN CHRISTENSEN:

Fair enough. I believe that I have made my point and appreciate the opportunity to do so. In closing, Madam Speaker, I will say that I hope that, as we see these budgets grow every two years, I hope we just put on our best thinking caps and consider the challenges and opportunities, and that we weigh those out. It has been my effort every since I have been here to try to bring as much balance as I can to this equation. I hope that as we go, that is something that we will have in mind. Thank you.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Today's decision is a difficult one to make. I, too, have many reservations. As I headed into my first session, which was the last special session, Speaker Buckley commented that it is easy to call yourself a leader when times are good, but that real leadership comes when we have to make difficult decisions. I thought about her comment many times during the last several months. While I did not agree with everything in the revenue package, I realized that passing this bill is vital to protecting our children, our senior citizens, and for keeping our community safe. As my colleague from District 27 said yesterday, "It is irresponsible to pass a budget that you are unwilling to fund."

I spend a lot of time keeping in touch with my constituents. They keep imploring me to support education, to protect our retirees, and to do the right things for our state's future. They even send me emails saying that they are willing to pay more if it would mean keeping our institutions of higher education open, doing what we can to improve K-12 education, preventing layoffs of police and firefighters, and maintaining essential government services. I supported the budget because the alternative wouldn't have done any of these things and would have destroyed the lives and futures of so many Nevadans.

I know firsthand that businesses are hurting in my district and around the state. I am a small business owner and my own business is hurting, too. I personally feel the pain that so many of my fellow Nevadans are feeling. I know our state is feeling pain that many of us thought we would never feel and I truly have agonized over this vote. I do think the sales tax regressively and disproportionately burdens those who can least afford it. I do think our tax structure needs to be thoroughly reviewed to ensure fairness for all Nevadans and all of Nevada's businesses. There are no clear choices, yet I have to make a choice for my vote. I have decided to vote yes because the alternative is certain and merciless cuts to our schools, our health care, and our state's most basic needs—not our wants, our needs. I will vote yes, because on this day, at this painful time in our state's history, I know that the alternative is unacceptable and I know that I need to fulfill my constitutional obligations to my constituents and to all Nevadans. Thank you.

ASSEMBLYMAN GOICOECHEA:

Thank you, Madam Speaker. First of all, I want thank all the members of this body, especially those that served on Ways and Means, for your support. Again, I was the new kid or one of the new kids in Ways and Means and I really appreciate the support you gave me.

I represent a very conservative district and I am here as a representative. I don't think there is anyone in this body that did not recognize when we came into session that we were going to need more revenue. The economic situation was worsening every day. And clearly, then, as we got into session, with the Governor's State of the State, I think it became very apparent we were going to need revenue. When I say "we," I met with my constituents and I talked to them. Again, I represent those conservative counties through central Nevada that have a very low sales tax rate. You know, most of them are at 6.5 percent. They sent me here saying they would go as high as a 1 percent increase on sales tax to meet the needs, to keep our schools open, our community colleges, and our conservation camps. Those are the things we need in rural Nevada. I neglected to mention our rural health clinics, which was a big issue and I want to thank my colleague from Reno for the support she gave all of rural Nevada on that.

There were portions of the revenue plan that I could support. In fact, I totally support the revenue plan in Senate Bill 429. It was the mechanism that got us there which will cause my no vote. The bottom line is the people I represent felt they needed a sales tax. They do feel that a tax on business . . . we have a lot of small businesses out there. They feared the MBT and, again, I am here to represent them. But I want you to know that I recognize and my constituents

recognize that we needed revenue and they were not afraid of a tax increase. It was only the kind. Thank you.

Roll call on Senate Bill No. 429:

YEAS—29.

NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Senate Bill No. 429 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 429 be immediately transmitted to the Senate.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 4:12 p.m.

ASSEMBLY IN SESSION

At 4:27 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 140.

The following Senate amendment was read:

Amendment No. 771.

AN ACT relating to real property; revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 7 of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. **Sections 2 and 6.7** of this bill require, if the sale of property is a residential foreclosure, a separate notice to be served upon any tenant or subtenant, other than the

judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130) **Sections 3 and 8** of this bill make it unlawful for a person to willfully remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days if the property has been sold as a residential foreclosure. **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period if the property has been sold as a residential foreclosure. Finally, **section 5** allows the new owner of the real property, if the property has been sold as a residential foreclosure, to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ ***or*** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[;]~~ ***and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;***

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ ***;*** ~~*[and]*~~

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. ***If the sale of property is a residential foreclosure, the notice must include, without limitation:***

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be ~~*[served by personal delivery or by certified mail, return receipt requested,]*~~ ***posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than***

the judgment debtor, in actual occupation of the premises ~~[at the same time]~~ not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must ~~[include, without limitation:~~

~~(a) A statement informing the tenant or subtenant that:~~

~~(1) A notice of the sale of the property has been issued;~~

~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and~~

~~(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and~~

~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.

If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person

residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor ***or any other person entitled to notice*** has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[~~A~~]~~ ***It is unlawful for a*** person ***to*** willfully ~~[~~taking~~]~~ ***take*** down or ~~[~~defacing~~]~~ ***deface*** the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment ***.*** ~~[~~, forfeits~~]~~ ***In addition to any other penalty, any person who violates this subsection shall forfeit*** $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as ***otherwise*** provided in ~~[subsection]~~ ***subsections*** 2 ~~[,]~~ ***and 7,*** in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280,]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. ***If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:***

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 5.5. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. ***Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.*** Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.7 of this act.

Sec. 6.3. ***1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.***

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 6.7. ***1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default [,] and election to sell and the notice of sale must:***

(a) Be posted in a conspicuous place on the property [on the same day] not later than 3 business days after the notice of default [,] and election to sell [and] or the notice of sale is recorded pursuant to NRS 107.080; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be ~~[served upon]~~ posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises ~~[at the same time]~~ not later than 3 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must ~~[be served in the manner prescribed in NRS 40.280 and must include, without limitation:~~

~~(a) A statement informing the tenant or subtenant that:~~

~~(1) A notice of the sale of the property has been issued;~~

~~(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process; and~~

~~(3) The provisions of chapter 40 of NRS govern the applicable eviction process; and~~

~~(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.]~~ be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under Nevada Revised Statutes 40.255, eviction proceedings may begin against you after you have been given a 3-day notice to quit.

If you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 7. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, ~~[and]~~ to the person who holds the title of record on the date the notice of default and election to sell is recorded ~~[,]~~ ***and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,*** at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ ***:***

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2 ~~[.]~~ ***; and***

(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor ***,*** ~~[and]~~ any other person entitled to notice pursuant to this section ***and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,*** by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; ~~[and]~~

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated ~~[.]~~ ***; and***

(d) If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[,]~~ ***or any applicable provision of section 6.7 of this act;***

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

8. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence" ~~*[means]*~~ ***:***

(a) Means a structure that is comprised of not more than four units.

(b) Does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ ***It is unlawful for a*** person ~~[who]~~ ***to*** willfully ~~[removes]~~ ***remove*** or ~~[defaces]~~ ***deface*** a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default ***.*** ~~[,]~~ ***In addition to any other penalty, any person who violates this section*** is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 140.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered to transmitted to the Senate.

Assembly Bill No. 513.

The following Senate amendment was read:

Amendment No. 762.

AN ACT relating to mortgage lending; ~~[requiring the licensing of a construction control as an escrow agent or agency;]~~ establishing education requirements for an escrow agent or agency; revising provisions relating to the jurisdiction of the Commissioner of Mortgage Lending; revising subpoena powers of the Commissioner; revising provisions relating to holders of a beneficial interest in a loan; eliminating the exemption of consumer finance companies from provisions relating to mortgage brokers, mortgage agents and mortgage bankers; revising provisions for the issuance of a certificate of exemption to a mortgage broker, mortgage agent or mortgage banker; requiring a mortgage broker to make additional disclosures under certain circumstances; revising provisions for the revocation of the license of a mortgage broker or mortgage agent; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill requires a construction control to be licensed as an escrow agent or agency.]~~ **Sections 3 and 4** of this bill establish educational prerequisites and continuing education requirements for an escrow agent or agency. **Sections 5, 9 and 15** of this bill provide that the jurisdiction and authority of the Commissioner of Mortgage Lending is unaffected by the expiration or voluntary surrender of a license as an escrow agent or agency, mortgage broker, mortgage agent or mortgage banker.

Sections 6, 12 and 18 of this bill provide that the Commissioner may subpoena documents without also subpoenaing the custodian of such documents. (NRS 645A.060, 645B.070, 645E.310)

Section 8 of this bill provides that if the beneficial interest in a loan for real property belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record.

Sections 10 and 16 of this bill eliminate the exemption of consumer finance companies from licensing and other requirements governing mortgage brokers, mortgage agents and mortgage bankers. (NRS 645B.015, 645E.150) **Sections 11 and 17** of this bill revise existing law by requiring proof of the right to transact mortgage loans, if applicable, in another jurisdiction as a condition to obtaining an exemption to licensing and other provisions governing mortgage brokers, agents and bankers. (NRS 645B.016, 645E.160)

Existing law requires a mortgage broker to include a servicing fee in any loan for which he engages in activity as a mortgage broker. (NRS 645B.305) **Section 13** of this bill limits the requirement to only such loans in which a private investor has acquired a beneficial interest. **Section 13** also requires a mortgage broker to make additional disclosures pertaining to fees earned by the mortgage broker and any impact such fees may have on the terms of the loan.

Section 14 of this bill revises existing law to provide that the Commissioner has the discretionary authority, rather than a mandatory obligation, to revoke the license of a mortgage broker or mortgage agent under certain circumstances. (NRS 645B.690)

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

Section 1. ~~[Chapter 627 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. A construction control must be licensed pursuant to chapter 645A of NRS as an escrow agent or agency.*~~

~~*2. The Division of Mortgage Lending of the Department of Business and Industry may adopt regulations as are necessary to carry out the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 2. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. ***1. In addition to any other requirement, an applicant for an original license as an escrow agent or agency must furnish proof satisfactory to the Commissioner of the successful completion of a course of instruction in the principles, practices, procedures, law and ethics of escrows, which course may be an extension or correspondence course offered by the Nevada System of Higher Education, by any other accredited college or university or by any other college or school approved by the Commissioner.***

2. An applicant for a license as an escrow agent or agency pursuant to NRS 645A.020 must meet the educational prerequisites required pursuant to this section not later than the date on which his application is received by the Office of the Commissioner.

3. The Commissioner shall adopt regulations setting forth standards for the educational prerequisites required pursuant to this section. The regulations must address standards for instructors, the scope and content of the instruction, required hours of instruction and such other criteria as the Commissioner considers necessary.

Sec. 4. ***1. The Commissioner shall adopt regulations that prescribe standards for the continuing education of persons licensed pursuant to this chapter.***

2. The standards adopted pursuant to subsection 1 must:

(a) Permit alternative subject material appropriate for specialized areas of practice and alternative sources of programs to ensure availability throughout the State and throughout the year;

(b) Set forth procedures pursuant to which the Commissioner may qualify providers to offer courses of continuing education, including, without limitation, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations and other organized educational programs on technical subjects;

(c) Set forth procedures pursuant to which the Commissioner may qualify those continuing education courses that he determines address the appropriate subject matter; and

(d) Set forth required hours of instruction and such other criteria as the Commissioner considers necessary.

3. Subject to the provisions of this section, the Commissioner has exclusive authority to determine which providers and courses may qualify for the purposes of continuing education under this chapter.

Sec. 5. ***The expiration or revocation of a license of an escrow agent or agency by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the escrow agent or agency as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the escrow agent or agency.

Sec. 6. NRS 645A.060 is hereby amended to read as follows:

645A.060 1. In the conduct of any examination, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter, and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Every person subpoenaed pursuant to the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

Sec. 7. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. ***1. Except as otherwise provided by law or by agreement between the parties and regardless of the date the interests were created, if the beneficial interest in a loan belongs to more than one natural person, the holders of 51 percent or more of the outstanding principal balance may act on behalf of all the holders of the beneficial interests of record on matters which require the action of the holders of the beneficial interests in the loan, including, without limitation:***

(a) The designation of a mortgage broker or mortgage agent, servicing agent or any other person to act on behalf of all the holders of the beneficial interests of record;

(b) The foreclosure of the property for which the loan was made;

(c) The sale, encumbrance or lease of real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of a foreclosure in full satisfaction of a loan;

(d) The release of any obligation under a loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and

(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date, interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.

2. Any action which is taken pursuant to subsection 1 must be in writing.

3. The provisions of this section do not apply to a transaction involving two investors with equal interests.

Sec. 9. ***The expiration or revocation of a license of a mortgage broker or mortgage agent by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:***

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage broker or mortgage agent as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage broker or mortgage agent.

Sec. 10. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, ~~[consumer finance companies,]~~ industrial loan companies, credit unions, thrift companies or insurance companies,

including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 11. NRS 645B.016 is hereby amended to read as follows:

645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 12. NRS 645B.070 is hereby amended to read as follows:

645B.070 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special

audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 13. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker ***:***

1. Includes a disclosure:

(a) Describing, in a specific dollar amount, all fees earned by the mortgage broker;

(b) Explaining which party is responsible for the payment of the fees described in paragraph (a); and

(c) Explaining the probable impact the fees described in paragraph (a) may have on the terms of the loan, including, without limitation, the interest rates.

2. If a private investor has acquired a beneficial interest in the loan, includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.

Sec. 14. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ ***may*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take

possession of the property of the mortgage broker pursuant to NRS 645B.630.

Sec. 15. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

The expiration or revocation of a license of a mortgage banker by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:

1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage banker as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage banker.

Sec. 16. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, **[**~~consumer finance companies,~~**]** industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 17. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business ***, including, if applicable, the right to transact mortgage loans,*** and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 18. NRS 645E.310 is hereby amended to read as follows:

645E.310 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any document by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and, in connection therewith, require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 19. (Deleted by amendment.)

Sec. 20. Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

The Commissioner shall adopt regulations establishing guidelines and limitations for the servicing or arranging of loans of which an investor has ownership or in which an investor has a beneficial interest.

Sec. 21. 1. This section and sections 1, 2 and 4 to 20, inclusive, of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective:

(a) On January 1, 2011, for the purposes of educational qualifications of escrow agents or agencies; and

(b) Upon passage and approval for all other purposes.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 513.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 151.

The following Senate amendment was read:

Amendment No. 775.

AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker; requiring certain financial

institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a mortgage broker to include his license number on each loan secured by a lien on real property for which he engages in activity as a mortgage broker. If a mortgage broker fails to comply with **section 1**, the Commissioner of Mortgage Lending may impose an administrative fine of not more than $10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with **section 1** is guilty of a misdemeanor. (NRS 645B.950)

Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property. The disclosures must be written in language that is easy to understand and printed in **at least** 10-point type or font. In addition, **section 2** requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. **Section 2** also authorizes the financial institution to contract with a nonprofit **or government-operated** consumer credit counseling ~~[,]~~ **or** housing counseling **agency** or **a nonprofit or government-operated** legal services agency to make the required certifications. A financial institution that fails to comply with **section 2** is guilty of a misdemeanor. (NRS 668.115)

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes the license number of the mortgage broker.

Sec. 2. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A financial institution which is required to be licensed pursuant to the provisions of this title or title 56 of NRS and which offers nontraditional mortgage loan products that are secured by liens on real property shall, with respect to each nontraditional mortgage loan made by the financial institution, disclose to the borrower adequate information concerning the actual costs and risks of the nontraditional mortgage loan product offered.

2. The disclosure required by subsection 1 must be written in language that is easy to understand, must be printed in at least 10-point bold type or font and must include, without limitation:

(a) Information concerning potential increases in monthly payments, including information describing the circumstances under which interest rates or negative amortization could reach the contractual limits;

(b) Information concerning the maximum monthly payment that the borrower may be required to pay if amortizing payments are required and the interest rate and negative amortization caps are reached;

(c) Information concerning the circumstances under which structural payment changes will occur, the amount of the new payments and the method of calculating the amount of the new payments;

(d) Information concerning negative amortization, including information describing the potential for increases in the principal balance and decreases in home equity and any other potential adverse consequences to the borrower resulting from negative amortization;

(e) If a nontraditional mortgage loan product includes prepayment penalties, information explaining the prepayment penalties and the amount of the penalties;

(f) If the financial institution offers full-document home loans in addition to low-document home loans, no-document home loans or stated-document home loans, information concerning any pricing premium that attaches to the low-document home loans, no-document home loans or stated-document home loans; and

(g) For payment option adjustable-rate mortgages, information explaining each payment option available and the effect on the loan balance of each payment option.

3. A financial institution required to make a disclosure pursuant to subsection 1 shall, with respect to each nontraditional mortgage loan made by the financial institution, certify to the Commissioner that the financial institution has made the disclosure required by subsection 1. The financial institution may contract with a nonprofit or government-operated consumer credit counseling [,] or housing counseling agency or a nonprofit or government-operated legal services agency which has been operating as such for the immediately preceding 7 years to provide the certification required by this subsection.

4. As used in this section:

(a) "Low-document home loan" has the meaning ascribed to it in NRS 598D.100.

(b) "No-document home loan" has the meaning ascribed to it in NRS 598D.100.

(c) "Nonprofit or government-operated consumer credit counseling [,] or housing counseling [or legal services] agency" means:

(1) A person or organization which is recognized as [exempt under] a charitable organization pursuant to section 501(c)(3) of the Internal

Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which is certified by the United States Department of Housing and Urban Development ~~[,]~~ ***as a Housing Counseling Agency;***

(2) A government agency or government-operated organization which is certified by the United States Department of Housing and Urban Development as a Housing Counseling Agency; or

~~[(2)]~~ ***(3) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which:***

(I) As its primary business, provides specialized personal and group counseling services to a person who is seeking to purchase a home or obtain legal advice regarding a real estate transaction and who is suffering or who may suffer economic hardship because of the extension of credit;

(II) Acts as an agent for a person who is suffering or who may suffer economic hardship because of the extension of credit in his efforts to resolve his economic hardships;

(III) May receive money or any other thing of value for disbursement to one or more of the creditors of a person who is suffering or who may suffer economic hardship because of the extension of credit; and

(IV) If it has a board of directors, has a board of directors with a majority of members who are not employed by the agency or otherwise receive any direct or indirect financial benefit from the provision of any services by the agency.

(d) "Nonprofit or government-operated legal services agency" means an organization that provides legal services to low-income persons without charge, and:

(1) Is a government agency or government-operated organization; or

(2) Is recognized as a charitable organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(e) "Nontraditional mortgage loan product" has the meaning ascribed to it in NRS 658.190 and also includes an adjustable-rate mortgage, a low-document home loan, a no-document home loan and a stated-document home loan.

~~[(e)]~~ ***(f) "Stated-document home loan" has the meaning ascribed to it in NRS 598D.100.***

Sec. 3. 1. The provisions of this act apply only to loans secured by liens on real property and nontraditional mortgage loan products offered on or after the effective date of this act.

2. For a loan secured by a lien on real property that is made on or after the effective date of this act but before October 1, 2009, a mortgage broker who does not include his license number on the loan as required by section 1 of this act may, without penalty, cure his failure to comply with section 1 of this act not later than 30 days after the date the loan is made.

3. For a nontraditional mortgage loan product offered on or after the effective date of this act but before October 1, 2009, a financial institution that:

(a) Is subject to the requirements of section 2 of this act; and

(b) Fails to comply with the provisions of section 2 of this act,

➥ may, without penalty, cure the failure to comply with section 2 of this act not later than 30 days after the date the nontraditional mortgage loan is made.

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

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 151.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 41, 103, 173, 175, 190, 213, 376, and 396 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 135.

The following Senate amendment was read:

Amendment No. 709.

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future state payments in an amount of $5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review.

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

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in

connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is ~~[required]~~ :

(1) Required to be repaid from a source other than state appropriations ~~[.]~~ ; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency

at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is:

(1) Required to be repaid from a source other than state appropriations; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or

installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[~~A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

~~(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on May 1, 2013.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 135.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Atkinson moved that the Assembly do not recede from its actions on Senate Bill No. 218, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Kihuen, Atkinson, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 218.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 389, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Dondero Loop, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 389.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 144.

The following Senate amendment was read:

Amendment No. 649.

AN ACT relating to real property; prohibiting public disclosure of the results of an annual examination of a mortgage broker under certain circumstances; revising provisions relating to appraisals of real property securing a loan in which an investor invests money; revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) **Section 1** of this bill prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) **Section 2** of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) **Section 2.5** of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal to meet certain standards. **Section 2.5** further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) **Section 3** of this bill revises those requirements in regard to mortgage brokers who make or offer for sale in this State any investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

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

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until ~~[any objections made by the mortgage broker have been decided by the Commissioner.]~~ ***after a period of time set by the Commissioner to determine any objections made by the mortgage broker.***

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct ~~[biennial]~~ examinations of a mortgage broker **,** ~~[instead of annual examinations,]~~ as described in paragraph (d) of subsection 2, ***on a biennial instead of an annual basis*** if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 2. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation ***or examination*** that is currently pending against a mortgage broker;

(b) Have an undesirable effect on the welfare of the public ~~[or the welfare of any mortgage broker or mortgage agent; or~~

~~(c) Give any mortgage broker a competitive advantage over any other mortgage broker.]~~ ***; or***

(c) Reveal personal information in violation of NRS 239B.030.

3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it : ~~*[, including, without limitation, a member of the news media:]*~~

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ~~[and]~~

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~[.]~~ ***; and***

(c) If the mortgage broker makes or offers for sale in this State any investments in promissory notes secured by liens on real property:

(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and

(2) The findings and results of:

(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and

(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.

Sec. 2.5. NRS 645B.300 is hereby amended to read as follows:

645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) ***Must be completed not more than 6 months before the mortgage broker's first solicitation for the loan;***

(b) Must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation;

(c) Must be performed by an appraiser who is authorized to perform appraisals in this State ~~[,]~~ ***or in the state where the real property securing the loan is located;*** and

~~[(b)]~~ ***(d)*** Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

5. ***If the mortgage broker obtains a written waiver of the appraisal as provided in subsection 4, the mortgage broker shall provide to each investor before he accepts any money from the investor a separate written disclosure which contains the information analyzed, the valuation methods and techniques employed and the reasoning for any opinion regarding value provided by or on behalf of the mortgage broker.***

6. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 3. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or

holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall ***suspend or*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

➥ the Commissioner shall suspend or revoke the license of the mortgage broker.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 144.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 149, Amendment No. 901, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 149.

The following Senate amendment was read:

Amendment No. 901.

AN ACT relating to real property; revising provisions governing foreclosures on property; providing for mediation under certain circumstances; providing for the imposition of a fee for mediation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085) **Section 1** of this bill establishes additional restrictions on the trustee's power of sale with respect to owner-occupied housing by providing a grantor of a deed of trust or the person who holds the title of record with the right to request mediation under which he may receive a loan modification. Once mediation is requested, no further action may be taken to exercise the power of sale until the completion of the mediation. Each mediation must be conducted by a senior justice, judge, hearing master or other designee pursuant to rules adopted by the Nevada Supreme ~~[Court or an entity designated by the Nevada Supreme]~~ Court, and a fee of not more than $85 per hour may be charged and collected for the mediation. **Section 2** of this bill also restricts the trustee's power of sale with respect to owner-occupied housing by revising the period in which a deficiency in performance or payment under the trust agreement may be made good before the trustee may exercise that power. Similarly, **section 3** of this bill restricts the trustee's power of sale with respect to owner-occupied housing by revising the manner in which service of notice that a person is in danger of losing his home must be made. In addition, **section 4** of this bill authorizes the Nevada Supreme Court to adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes [in] with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection [2] 3 of NRS [107.085:] 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; and

(3) A form upon which the grantor or the person who holds the title of record may indicate his election to enter into mediation or to waive mediation and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor [and] or the person who holds the title of record shall, not later than 30 days after service of the notice upon him in the manner required by NRS [107.085,] 107.080, complete the form required by subparagraph (3) of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on [his respective] the form his election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record [, or both,] to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. No further action may be

taken to exercise the power of sale until the completion of the mediation. If [both] the grantor [and] or the person who holds the title of record [indicate] indicates on [their respective forms their] the form his election to waive mediation or [if both fail] fails to return [their respective forms] the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor [and] or the person who holds the title of record, or proof of service on the grantor [and] or the person who holds the title of record of the notice required by subsection 2 of this section and subsection [2] 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or his representative shall attend the mediation. The grantor or his representative shall attend the mediation if the grantor elected to enter into mediation, [and] or the person who holds the title of record or his representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or his representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or his representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or his representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If [both] the grantor [and] or the person who holds the title of record elected to enter into mediation and [both fail] fails to attend the mediation, [or if only one of those persons elected to enter into mediation and that person fails to attend the mediation,] the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court ~~[or an entity designated by the Supreme Court]~~ shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the District Court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than ~~[$85 per hour]~~ $400 that may be charged and collected by the Mediation Administrator for ~~[a]~~ mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence is immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a

bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by an owner as his primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 2. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, ***and section 1 of this act,*** if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) ~~[In]~~ ***Except as otherwise provided in paragraph (b), in*** the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has ***,*** for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, ~~[or his successor in interest,]~~ ***the person who holds the title of record,*** a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property ~~[,]~~ has ***,*** for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5*** ~~*[business]*~~ ***days before the date of sale, failed to make good the deficiency in performance or payment;***

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

~~[(c)]~~ ***(d)*** Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 ***, or the period provided in paragraph (b) of subsection 2,*** commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the

property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor ~~[, and]~~ ***or*** to the person who holds the title of record on the date the notice of default and election to sell is recorded, at ~~[their respective addresses,]~~ ***his address,*** if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[,]~~ ***or any applicable provision of section 1 of this act;***

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each

trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 3. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003 ~~[;~~ ~~and~~

~~(b) On]~~ ***, and, on*** the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32 ~~[.]~~ ***; or***

(b) The trust agreement concerns owner-occupied housing as defined in section 1 of this act.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor ~~*[and]*~~ ***or the person who holds the title of record*** a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor ~~*[and]*~~ ***or the person who holds the title of record:***

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor ~~[;]~~ ~~*[and]*~~ ***or the person who holds the title of record; or***

(2) If the trust agreement concerns owner-occupied housing as defined in section 1 of this act:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

Your home loan is being foreclosed. In ***not less than*** 60 days your home will be sold and you will be forced to move. For help, call:

Consumer Credit Counseling _____

The Attorney General _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. This section does not prohibit a judicial foreclosure.

5. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 3.5. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 ~~[nor]~~ ***or*** the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 ~~[nor]~~ ***or*** the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in ***paragraph (a) of subsection 2 of*** NRS 107.080; ~~[or]~~

(2) ***In the case of any trust agreement which concerns owner-occupied housing as defined in section 1 of this act, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or***

(3) Any extension of ~~[that]~~ ***the applicable*** period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:

The Supreme Court may adopt rules providing for voluntary mediation with respect to a homeowner who is not in default but is at risk of default.

Sec. 5. NRS 459.646 is hereby amended to read as follows:

459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:

(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;

(b) The owner or holder of evidence of title did not cause the release; and

(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.

2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.100, inclusive, ***and section 1 of this act,*** and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:

(a) Foreclosing a security interest in the property; or

(b) Making a loan to the prospective purchaser if the loan:

(1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and

(2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.

Sec. 5.5. **The amendatory provisions of this act governing trust agreements which concern owner-occupied housing, as defined in section 1 of this act, apply only with respect to such agreements for which a notice of default is recorded on or after July 1, 2009.**

Sec. 5.7. **Notwithstanding any provision of NRS 2.120 to the contrary and in recognition of the emergency situation confronting this State concerning mortgage foreclosures and the need to implement the provisions of this act quickly, any rules adopted by the Supreme Court pursuant to subsection 8 of section 1 of this act take effect on the date specified by the Supreme Court in the order adopting the rules, which in no event may be less than 30 days after entry of the order.**

Sec. 6. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 149.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 102.

The following Senate amendment was read:

Amendment No. 867.

AN ACT relating to public health; authorizing a court to establish a program of treatment for problem gambling and to assign a person to the program; authorizing a problem gambler to elect to be assigned to such a program under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to assign a person who commits certain crimes to an appropriate program of treatment for the abuse of alcohol or drugs established by the court or to an appropriate facility for the treatment of abuse of alcohol or drugs which is certified by the Health Division of the Department of Health and Human Services. (NRS 453.580) **Section 6** of this bill authorizes a court to establish a program for the treatment of problem gambling. Existing law creates the Advisory Committee on Problem Gambling and provides a grant of money or a contract for services to certain programs for the prevention and treatment of problem gambling. (Chapter 458A of NRS) **Sections 7-12** of this bill provide that a problem gambler who has been convicted of certain crimes **and who committed the crime in furtherance or as a result of problem gambling** is eligible to be assigned by a court to a program of treatment and provide eligibility requirements and conditions that must be completed for such treatment. **The conditions upon the election of treatment must include an agreement to pay restitution to the victim of the crime.**

Existing law allows a court to seal the records related to a dismissal or acquittal of criminal charges. (NRS 179.255) **Section 14** of this bill allows a court to seal records relating to the setting aside of a conviction if the person satisfactorily completed a program for treatment of problem gambling and satisfied the conditions upon the election of that treatment. The sealing of these records is subject to the same procedures, and has the same effect, as the sealing of records related to a dismissal or acquittal of criminal charges. (NRS 179.255, 179.265-179.301)

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

Section 1. Chapter 458A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ***"Problem gambler" means a person who suffers from problem gambling.***

Sec. 5. ***"Problem gambling" has the meaning ascribed to it in NRS 641C.110.***

Sec. 5.5. 1. "Qualified mental health professional" means any of the following persons:

(a) A person who is certified as a problem gambling counselor pursuant to the provisions of chapter 641C of NRS.

(b) A person who is certified as a problem gambling counselor intern pursuant to the provisions of chapter 641C of NRS.

(c) A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS.

(d) A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling problem gamblers.

(e) A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS ~~[.]~~ ***or a psychological assistant who is registered with the Board of Psychological Examiners pursuant to the provisions of chapter 641 of NRS and the regulations adopted pursuant thereto.***

(f) A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS.

(g) A marriage and family therapist or marriage and family therapist intern who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors to engage in the practice of counseling problem gamblers.

(h) A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of Examiners for Social Workers to engage in the practice of counseling problem gamblers.

2. As used in this section, "practice of counseling problem gamblers" has the meaning ascribed to it in NRS 641C.105.

Sec. 5.7. "Restitution" means the total amount of money owed to a victim of a crime to compensate the victim for all losses suffered as a result of the crime and any statutory fees and costs associated with the collection of that amount of money.

Sec. 6. ***1. A court may establish a program for the treatment of problem gambling to which it may assign a person pursuant to section 7 of this act. The assignment must*** ~~*[include]*~~ ***:***

(a) Include *the terms and conditions for successful completion of the program* ~~*[and provide]*~~ ***;***

(b) Require that the person assigned to the program agree to pay restitution as a condition upon the election of treatment; and

(c) Provide *for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.*

2. A program established pursuant to this section must be administered by a qualified mental health professional and must include, without limitation:

(a) Information and encouragement for the participant to cease problem gambling through educational, counseling and support sessions;

(b) The opportunity for the participant to understand the medical, psychological, social and financial implications of problem gambling; and

(c) Appropriate referral to community, health, substance abuse, religious and social service agencies for additional resources and related services, as needed.

3. Before the court assigns a person to a program for the treatment of problem gambling, the person must agree to pay the cost of the program to which he is assigned, to the extent of his financial resources. If the person does not have the financial resources to pay all the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs.

Sec. 7. ***Subject to the provisions of sections 2 to 12, inclusive, of this act, a problem gambler who has been convicted of a crime*** ***and who committed the crime in furtherance or as a result of problem gambling*** ***is eligible to elect to be assigned by the court to a program for the treatment of problem gambling before he is sentenced unless:***

1. The crime is:

(a) A crime against the person punishable as a felony or gross misdemeanor as provided in chapter 200 of NRS;

(b) A crime against a child as defined in NRS 179D.0357;

(c) A sexual offense as defined in NRS 179D.097; or

(d) An act which constitutes domestic violence as set forth in NRS 33.018;

2. The problem gambler has a record of two or more convictions of a crime described in subsection 1 or a similar crime in violation of the laws of another state, or of three or more convictions of any felony;

3. Other criminal proceedings alleging commission of a felony are pending against the problem gambler; ~~*[or]*~~

4. The problem gambler is on probation or parole, except that the problem gambler is eligible to make the election if the appropriate probation or parole authority consents to the election or the court finds that the problem gambler is eligible to make the election after considering any objections made by the appropriate probation or parole authority [.] ; or

5. The problem gambler has previously been assigned by a court to a program for the treatment of problem gambling, except that the problem gambler is eligible to make the election if the court, in its discretion, finds that the problem gambler is eligible to make such an election.

Sec. 8. ***1. If the court [has] :***

(a) Has reason to believe that [a] :

(1) A person who has been convicted of a crime is a problem gambler ; and [the court finds]

(2) The person committed the crime in furtherance or as a result of problem gambling; and

(b) Finds that he is eligible to make the election as provided in section 7 of this act, [the]

➥ the court shall hold a hearing before it sentences the person to determine whether or not the person committed the crime in furtherance or as a result of problem gambling and whether or not he should receive treatment under the supervision of a qualified mental health professional. The district attorney may present the court with any evidence concerning whether the person committed the crime in furtherance or as a result of problem gambling and the advisability of permitting the person to make the election.

2. At the hearing, the court shall advise the person that sentencing will be postponed if he elects to submit to treatment and is accepted into a program for the treatment of problem gambling. In offering the election, the court shall advise him that:

(a) The court may impose any conditions upon the election of treatment that could be imposed as conditions of probation;

(b) If he elects to submit to treatment and is accepted, he [may] :

(1) May be placed under the supervision of the qualified mental health professional for a period of not less than 1 year and not more than 3 years; and

(2) Must agree to pay restitution as a condition upon the election of treatment;

(c) During treatment, he may be confined in an institution or, at the discretion of the qualified mental health professional, released for treatment or supervised care in the community;

(d) If he satisfactorily completes treatment and satisfies the conditions upon the election of treatment, as determined by the court, the conviction will be set aside, but if he does not satisfactorily complete treatment and satisfy the conditions, he may be sentenced and the sentence executed; and

(e) If his conviction is set aside pursuant to section 10 of this act, he may, at any time after the conviction is set aside, file a petition pursuant to NRS 179.255 for the sealing of all records relating to the setting aside of the conviction.

Sec. 9. ***1. If the court, after a hearing, determines that a person is entitled to accept the treatment offered pursuant to section 7 of this act, the court shall order a qualified mental health professional to conduct an examination of the person to determine whether he is a problem gambler , whether he committed the crime in furtherance or as a result of problem gambling and whether he is likely to be rehabilitated through treatment. The qualified mental health professional shall report to the court the results of the examination and recommend whether the person should be placed under supervision for treatment.***

2. If the court, acting on the report or other relevant information, determines that the person is not a problem gambler, did not commit the crime in furtherance or as a result of problem gambling, is not likely to be rehabilitated through treatment or is otherwise not a good candidate for treatment, he may be sentenced and the sentence executed.

3. If the court determines that the person is a problem gambler, committed the crime in furtherance or as a result of problem gambling, is likely to be rehabilitated through treatment and is a good candidate for treatment, the court may:

(a) Impose any conditions upon the election of treatment that may be imposed as conditions of probation;

(b) Defer sentencing until such time, if any, as sentencing is authorized pursuant to section 10 of this act; and

(c) Place the person under the supervision of a qualified mental health professional for not less than 1 year and not more than 3 years.

➥ The court may require such progress reports on the treatment of the person as it deems necessary.

4. If the court places a person under the supervision of a qualified mental health professional for the purpose of receiving treatment pursuant to sections 2 to 12, inclusive, of this act, the person must agree to pay restitution as a condition upon the election of treatment.

5. A person who is placed under the supervision of a qualified mental health professional shall pay the cost of the program of treatment to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources. The court may issue a judgment in favor of the court or the qualified mental health professional for the costs of the treatment and supervision which remain unpaid at the conclusion of the treatment. The judgment constitutes a lien in like manner as a judgment for money rendered in a civil action, but in no event may the amount of the judgment include any amount of the debt which was extinguished by the successful completion of community service pursuant to subsection ~~[5.]~~ 6.

~~[5.]~~ 6. If the person who is placed under the supervision of a qualified mental health professional does not have the financial resources to pay all of the related costs:

(a) The court shall, to the extent practicable, arrange for the person to be assigned to a program that receives a sufficient amount of federal or state funding to offset the remainder of the costs; and

(b) The court may order the person to perform supervised community service in lieu of paying the remainder of the costs relating to his treatment and supervision. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of this State or a charitable organization that renders service to the community or its residents. The court may require the person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which the person performs the community service, unless, if the insurance is industrial insurance, it is provided by the authority for which he performs the community service.

~~[6.]~~ 7. No person may be placed under the supervision of a qualified mental health professional pursuant to this section unless the qualified mental health professional accepts him for treatment.

Sec. 10. *1. Whenever a person is placed under the supervision of a qualified mental health professional, his sentencing must be deferred and, except as otherwise provided in subsection 4, his conviction must be set aside if the qualified mental health professional certifies to the court that he has satisfactorily completed the program of treatment and the court approves the certification and determines that the conditions upon the election of treatment have been satisfied.*

2. If, upon the expiration of the treatment period, the qualified mental health professional has not certified that the person has completed his program of treatment, the court shall sentence him. If he has satisfied the conditions upon the election of treatment and the court believes that he will complete his treatment voluntarily, the court may set the conviction aside.

3. If, before the treatment period expires, the qualified mental health professional determines that the person is not likely to benefit from further treatment, the qualified mental health professional shall so advise the court. The court shall then:

(a) Arrange for the transfer of the person to a more suitable program, if any; or

(b) Terminate the supervision and conduct a hearing to determine whether the person should be sentenced.

➥ If a person is sentenced pursuant to this section, any time spent in institutional care must be deducted from any sentence imposed.

4. Regardless of whether the person successfully completes treatment, the court shall not set aside the conviction of a person who has a record of two or more convictions of any felony for two or more separate incidents.

Sec. 11. ***1. The determination of problem gambling and civil commitment pursuant to sections 2 to 12, inclusive, of this act shall not be deemed a criminal conviction.***

2. The records relating to the setting aside of a conviction pursuant to section 10 of this act may be sealed pursuant to NRS 179.255.

Sec. 12. ***The provisions of sections 2 to 12, inclusive, of this act do not require this State or any of its political subdivisions to establish or finance any program for the treatment of problem gambling.***

Sec. 13. NRS 458A.010 is hereby amended to read as follows:

458A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 458A.020 to 458A.050, inclusive, ***and sections 2 to*** ~~[5.5,]~~ ***5.7, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. NRS 179.255 is hereby amended to read as follows:

179.255 1. If a person has been arrested for alleged criminal conduct and the charges are dismissed or such person is acquitted of the charges, the person may petition:

(a) The court in which the charges were dismissed, at any time after the date the charges were dismissed; or

(b) The court in which the acquittal was entered, at any time after the date of the acquittal,

➥ for the sealing of all records relating to the arrest and the proceedings leading to the dismissal or acquittal.

2. ***If the conviction of a person is set aside pursuant to section 10 of this act, the person may petition the court that set aside the conviction, at any time after the conviction has been set aside, for the sealing of all records relating to the setting aside of the conviction.***

3. A petition filed pursuant to ~~[this section]~~ ***subsection 1 or 2*** must:

(a) Be accompanied by a current, verified record of the criminal history of the petitioner received from the local law enforcement agency of the city or county in which the petitioner appeared in court;

(b) Include a list of any other public or private agency, company, official and other custodian of records that is reasonably known to the petitioner to have possession of records of the arrest and of the proceedings leading to the dismissal or acquittal and to whom the order to seal records, if issued, will be directed; and

(c) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

~~[3.]~~ ***4.*** Upon receiving a petition pursuant to ~~[this section,]~~ ***subsection 1,*** the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the charges were dismissed or the acquittal was entered in a district court or ~~[~~Justice Court,~~]~~ ***justice court,*** the prosecuting attorney for the county; or

(b) If the charges were dismissed or the acquittal was entered in a municipal court, the prosecuting attorney for the city.

➥ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

~~[~~4.~~]~~ ***5. Upon receiving a petition pursuant to subsection 2, the court shall notify:***

(a) If the conviction was set aside in a district court or justice court, the prosecuting attorney for the county; or

(b) If the conviction was set aside in a municipal court, the prosecuting attorney for the city.

➥ ***The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.***

6. If, after the hearing ***on a petition submitted pursuant to subsection 1***, the court finds that there has been an acquittal or that the charges were dismissed and there is no evidence that further action will be brought against the person, the court may order sealed all records of the arrest and of the proceedings leading to the acquittal or dismissal which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

7. If, after the hearing on a petition submitted pursuant to subsection 2, the court finds that the conviction of the petitioner was set aside pursuant to section 10 of this act, the court may order sealed all records relating to the setting aside of the conviction which are in the custody of the court, of another court in the State of Nevada or of a public or private company, agency or official in the State of Nevada.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 102.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 147.

The following Senate amendment was read:

Amendment No. 789.

SUMMARY—Requires local governments, under certain circumstances, to grant preference to local bidders bidding on certain contracts for goods or services ~~[.]~~ **for a temporary period.** (BDR 27-753)

AN ACT relating to purchasing by local governments; requiring local governments, under certain circumstances, to grant a preference to local bidders bidding on certain contracts for goods or services ~~[.]~~ **for a temporary period;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a 5-percent preference in bidding on public works and certain highway construction projects for contractors who provide evidence of the payment of certain taxes. (NRS 338.1389, 338.147, 338.1693, 338.1727, 408.3883, 408.3886) ~~[Sections]~~ **During the period between August 1, 2009, and July 31, 2013, sections 1 and 2** of this bill provide for a 5-percent preference in bidding on local governmental purchasing contracts **for which the estimated annual amount required to perform exceeds $50,000** for contractors who qualify as a "local bidder," and set forth the criteria by which a bidder may qualify as a local bidder ~~.]~~ **, including specific additional criteria if the contract is for the purchase of biodiesel blend fuel.**

Under existing law, certain local governmental contracts for certain goods and services are stated to be, by their nature, not adapted to award by competitive bidding. (NRS 332.115) ~~[Sections]~~ **During the period between August 1, 2009, and July 31, 2013, sections 1 and 3** of this bill provide that, irrespective of this exclusion from competitive bidding, local governmental contracts for the following types of goods and services must reflect consideration for local contractors if the governing body of the local government or its authorized representative has a choice of more than one person or vendor to fulfill the contract: (1) professional services; (2) perishable goods; (3) insurance; (4) hardware and associated peripheral equipment and devices for computers; (5) software for computers; (6) books, library materials and subscriptions; (7) items for resale through a retail outlet operated in this State by a local government or the State of Nevada; and (8) the design of, and equipment and services associated with, systems of communication.

Section 5 of this bill requires the submission of certain annual reports by local governments concerning any contracts awarded for which the estimated annual amount required to perform the contract exceeds $25,000 and contracts for goods and services not adapted to award by competitive bidding during the period between August 1, 2009, and July 31, 2013.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections ~~[5 and 6,]~~ 6 and 7, with respect to the awarding of a contract pursuant to NRS 332.065 for which the estimated annual amount required to perform the contract is more than ~~[$25,000,]~~ $50,000, a responsive and responsible bidder who is a local bidder shall be deemed to have submitted a lower bid than a competing bidder who is not a local bidder if the amount of the bid of the local bidder is not more than 5 percent higher than the amount bid by the competing bidder.

2. With respect to the awarding of a contract of the type described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1 of NRS 332.115, if a governing body or its authorized representative has a choice of more than one person or vendor to fulfill the contract, at least one of whom is a local bidder, the contract must be awarded in such a manner as to reflect the preference described in subsection 6 of that section.

3. ~~[To]~~ Except as otherwise provided in subsection 4, to qualify as a local bidder for the purposes of this section:

(a) If the bidder is a business of which at least 51 percent of the ownership interest is held by a member of a minority group, a woman or a service-disabled veteran, the business must have continuously employed at least one full-time employee in this State during the immediately preceding 1-year period.

(b) If the bidder is a business that does not meet the requirements of paragraph (a), the business must have:

(1) Continuously conducted business operations in this State during the immediately preceding 2-year period; and

(2) Continuously employed at least one full-time employee in this State during the immediately preceding 2-year period.

4. If a governing body or its authorized representative is awarding a contract described in subsection 1 for the purchase of biodiesel blend fuel, in addition to the requirements set forth in subsection 3, to qualify as a local bidder, the bidder must provide to the governing body or its authorized representative a biodiesel blend fuel that is made from biodiesel fuel produced in this State.

5. Governing bodies and their authorized representatives ~~[shall]~~ may consult with the Purchasing Division of the Department of Administration to develop uniform standards for businesses to submit proof of their status for the purposes of subsection 3. Such uniform standards may include, without limitation, certification by reputable and reliable public or private entities to determine whether at least 51 percent of the ownership interest of a business is or is not held by a member of a minority group, a woman or a service-disabled veteran.

~~[5.]~~ 6. The provisions of this section do not require a local government or its authorized representative to award a contract to a bidder whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the bid.

~~[6.]~~ 7. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of this section, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

~~[7.]~~ 8. As used in this section:

(a) "Biodiesel fuel" means a fuel that:

(1) Is composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and designated "B100"; and

(2) Meets the requirements of the ASTM International specification D6751.

(b) "Biodiesel blend fuel" means a blend of biodiesel fuel that:

(1) Meets the requirements of the D6751 with petroleum-based diesel fuel; and

(2) Is designated "BXX," where "XX" represents the volume percentage of biodiesel fuel in the blend.

(c) "Minority group" has the meaning ascribed to it in NRS 232.472.

~~*[(b)]*~~ ***(d) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of 0 percent or greater as determined by the United States Department of Veterans Affairs.***

Sec. 2. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder ~~[may]~~ ~~*[must]*~~ ***:***

(a) Must, if the estimated annual amount required to perform the contract is more than $50,000, be judged on the basis of the status of the bidder as a local bidder, as determined pursuant to section 1 of this act; and

(b) May be judged on the basis of:

~~[(a)]~~ ***(1)*** Price;

~~[(b)]~~ ***(2)*** Conformance to specifications;

~~[(c)]~~ ***(3)*** Qualifications;

~~[(d)]~~ ***(4)*** Past performance;

~~[(e)]~~ ***(5)*** Performance or delivery date;

~~[(f)]~~ ***(6)*** Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

~~*[(g) The status of the bidder as a local bidder, as determined pursuant to section 1 of this act;*~~

~~*(h)]*~~ ***(7)*** The best interests of the public; and

~~[(h)]~~ ~~*[(i)]*~~ ***(8)*** Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

3. If **,** after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 3. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Books, library materials and subscriptions;

(j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;

(l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(m) Supplies, materials or equipment that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another governmental agency located within or outside this State;

(n) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(o) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(p) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(q) The design of, and equipment and services associated with, systems of communication,

➥ are not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; or

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the

requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

➥ The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids.

6. ***Notwithstanding the provisions of subsections 1 to 5, inclusive, and except as otherwise provided in subsections 7 and 8, if a governing body or its authorized representative is choosing between two or more businesses, contractors or vendors to fulfill a contract described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1, the governing body or authorized representative, as applicable, shall:***

(a) Include within its selection criteria consideration of the following factors:

(1) The number of residents of this State that the business, contractor or vendor employs;

(2) ~~*[The amount of taxes and fees paid by the business, contractor or vendor to state and local governmental entities in Nevada;*~~

~~*(3)]*~~ ***The length of time in which the business, contractor or vendor has maintained business operations in this State or the applicable local jurisdiction; and***

~~*[(4)]*~~ ***(3) If the contract to be fulfilled is a contract described in paragraph (b) of subsection 1, the number of owners and principals of the business, contractor or vendor who are residents of this State.***

(b) If the governing body or authorized representative uses a point system or similar scoring rubric, and if one or more of the businesses, contractors or vendors being considered qualifies as a local bidder

pursuant to section 1 of this act, the status of being a local bidder must account for not less than 5 percent of the points or score awarded.

7. The provisions of subsection 6 do not require a local government or its authorized representative to award a contract to a business, contractor or vendor whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the offer to fulfill the contract.

8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of subsection 6, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

9. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 239C.030.

(b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➥ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 4. NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees ~~[.]~~ ***, but this sentence does not prohibit consideration of the factors set forth in subsection 6 of NRS 332.115.*** If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 5. ~~[Each]~~ **1. Except as otherwise provided in subsection 3, each** local government that awards a contract **for which the estimated annual amount required to perform the contract is more than $25,000** in accordance with the provisions of ~~[section 1 of this act]~~ **NRS 332.065, as amended by section 2 of this act,** or **a contract pursuant to** NRS 332.115, as amended by section 3 of this act, ~~[or both,]~~ shall, on or before October 1 of each year in which it awards such a contract, submit to the Director of the Legislative Counsel Bureau a report ~~[setting forth:~~

~~1.]~~ **detailing those contracts on the form prescribed by the Committee on Local Government Finance.**

2. Before August 1, 2009, the Committee on Local Government Finance shall prescribe a form for the report described in subsection 1, which must include, without limitation:

(a) The **total** number of ~~[transactions conducted]~~ **contracts described in subsection 1 awarded** by the local government ~~[that are subject to the provisions of this act.~~

~~2. The number of businesses, contractors and vendors that qualified as local bidders pursuant to section 1 of this act.~~

~~3.]~~ **during the year to which the report pertains; and**

(b) A description of each ~~[type of transaction conducted by the local government which was subject to the provisions of this act,]~~ **such contract,** including, without limitation:

~~[(a) Whether the transaction was for goods or services.~~

~~(b)]~~ **(1) The name of the person or entity to whom the contract was awarded.**

(2) The particular type of goods or services involved in the ~~[transaction.~~

~~(c)]~~ **contract.**

(3) The total dollar amount of the ~~[transaction.~~

~~4. The number of businesses, contractors and vendors that:~~

~~(a) Were awarded a contract without being qualified as a local bidder or without receiving any consideration as a local bidder.~~

~~(b) Were awarded a contract, in whole or in part, because they were qualified as a local bidder or received consideration as a local bidder. The information required pursuant to this paragraph must include, for each such contract, the dollar amount of the contract.~~

~~5. Any other information determined to be relevant by the Director of the Legislative Counsel Bureau.~~] **contract.**

(4) Whether the person or entity to whom the contract was awarded was awarded the contract as a result of subsection 1 or 2 of section 1 of this act.

(5) If the person or entity to whom the contract was awarded was not qualified as a local bidder pursuant to section 1 of this act, the number of qualified local bidders that bid on the contract.

3. The report required to be submitted in 2013 pursuant to subsection 1 must be submitted by July 31, 2013, and must include the required information that is current through June 30, 2013.

Sec. 6. This act becomes effective on ~~[July]~~ **August** 1, 2009 ~~[.]~~ **, and expires by limitation on July 31, 2013.**

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 147.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 492.

The following Senate amendment was read:

Amendment No. 822.

AN ACT relating to taxation; imposing certain requirements on the enactment of exemptions from property taxes and sales and use taxes; imposing certain requirements on legislation revising the authority of the Commission on Economic Development to approve abatements of taxes; requiring the Commission to notify affected political subdivisions before taking action on such abatements; requiring certain reports from the Department of Taxation; **creating a permanent Legislative Committee on Taxation and Tax Policy;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill carries out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, through the statutory imposition of those constitutional requirements regarding the enactment by the Legislature of any exemptions from property taxes or sales and use taxes.

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) **Sections 2 and 3** of this

bill impose various requirements upon future state legislation expanding the authority of the Commission to approve any abatements of taxes and require the Department of Taxation to prepare biennial reports for the Legislature on whether the costs of such future abatements exceed the benefits thereof.

Section 4 of this bill requires the Commission on Economic Development to provide notice to affected political subdivisions at least 30 days before taking action on an application for any abatement of taxes imposed on a business. **Section 5** of this bill repeals various provisions which partially duplicate the provisions of **section 4**.

Sections 7 to 12, inclusive, of this bill create a permanent Legislative Committee on Taxation and Tax Policy to review and evaluate issues related to taxation in this State.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***In accordance with Section 6 of Article 10 of the Constitution of the State of Nevada:***

1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:

(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers.

Sec. 3. ***1. Any state legislation enacted on or after July 1, 2009, which authorizes or requires the Commission on Economic Development to approve any abatement of taxes or increases the amount of any abatement of taxes which the Commission is authorized or required to approve:***

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed pursuant to NRS 374.110 or 374.190; or

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement to submit to the Department, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department shall:

(a) Based upon the information submitted to the Department pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Sec. 4. ***1. If the Commission on Economic Development receives an application for any abatement of taxes imposed on a business, the Commission shall, at least 30 days before the meeting at which the Commission takes any action on the application, provide notice of the application to:***

(a) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the business is or will be located; and

(b) The governing body of any other political subdivision that could be affected by the abatement.

2. The notice required by this section must set forth the date, time and location of the meeting at which the Commission on Economic Development will consider the application.

3. The Commission on Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 5. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and

(2) Any guidelines adopted pursuant to the State Plan.

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ ***4,*** continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. ~~[If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to~~

~~this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.~~

~~5.~~ If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

~~6.~~ ***5.*** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~7.~~ ***6.*** If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~8.~~ ***7.*** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~7~~ ***6*** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

~~9.~~ ***8.*** The Commission on Economic Development:

(a) Shall adopt regulations relating to ~~:~~

~~(1) The~~ ***the*** minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

~~(2) The notice that must be provided pursuant to subsection 4.~~

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***9.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***10.*** An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 6. **Chapter 218 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 12, inclusive, of this act.**

Sec. 7. ***As used in sections 7 to 12, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Taxation and Tax Policy created by section 8 of this act.***

Sec. 8. ***1. There is hereby created a Legislative Committee on Taxation and Tax Policy consisting of eight legislative members. The membership of the Committee consists of:***

(a) The immediate past Chairman of the Senate Committee on Taxation;

(b) The immediate past Chairman of the Assembly Committee on Taxation;

(c) Three members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party; and

(d) Three members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. The immediate past Chairman of the Senate Committee on Taxation is the Chairman of the Committee for the period ending with the convening of each odd-numbered session of the Legislature. The immediate past Chairman of the Assembly Committee on Taxation is the Chairman of the Committee during the next legislative interim, and the chairmanship alternates between the Houses of the Legislature according to this pattern.

3. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

4. Vacancies on the Committee must be filled in the same manner as original appointments.

5. The Committee shall report annually to the Legislative Commission concerning its activities and recommendations.

Sec. 9. ***1. The members of the Legislative Committee on Taxation and Tax Policy shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.***

2. The Director of the Legislative Counsel Bureau or a person he designates shall act as the nonvoting recording Secretary.

3. The Committee shall adopt rules for its own management and government.

4. Except as otherwise provided in this subsection, five members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly serving on the Committee.

5. Except during a regular or special session of the Legislature, each member of the Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which he attends a meeting of the Committee or is otherwise engaged in the business of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided for state officers and employees generally. The salaries and expenses of the Committee must be paid from the Legislative Fund.

Sec. 10. ***1. The Legislative Committee on Taxation and Tax Policy shall review and evaluate:***

(a) Taxes imposed in this State, the rates of such taxes, tax exemptions, tax abatements and any specified use of revenues from taxes; and

(b) The efficiency and effectiveness of the collection and administration of taxes in this State.

2. The Committee may:

(a) Conduct investigations and hold hearings in connection with its review and study;

(b) Apply for any available grants and accept any gifts, grants or donations and use any such gifts, grants or donations to aid the Committee in carrying out its duties pursuant to sections 7 to 12, inclusive, of this act;

(c) Direct the Legislative Counsel Bureau to assist in its research, investigations, review and study; and

(d) Recommend to the Legislature, as a result of its review and study, any appropriate legislation.

3. The Committee may appoint a technical advisory group to assist the Committee. Members of any technical advisory group serve without compensation.

Sec. 11. ***1. In conducting the investigations and hearings of the Legislative Committee on Taxation and Tax Policy:***

(a) Any member of the Committee may administer oaths.

(b) The Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books, papers and documents.

2. If any witness refuses to attend or testify or produce any books, papers and documents as required by the subpoena, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books, papers and documents;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books, papers and documents required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books, papers and documents before the Committee.

3. Upon such petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books, papers or documents before the Committee. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books, papers or documents. Failure to obey the order constitutes contempt of court.

Sec. 12. Each witness who appears before the Legislative Committee on Taxation and Tax Policy by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chairman of the Committee.

~~[Sec. 6.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 492.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 54.

The following Senate amendment was read:

Amendment No. 660.

AN ACT relating to counties; authorizing a board of county commissioners in certain counties to establish programs to provide financial assistance to persons to connect to a public water or sewer system or to make property resistant to flood damage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to establish: (1) a program to provide financial assistance to persons to connect to a public water or sewer system under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Except as otherwise provided in this section, if a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 operates a public water or sewer system, the board may:***

(a) Establish by ordinance a program to provide financial assistance to persons ~~*[within a particular water basin]*~~ ***to connect to the public water or sewer system.***

(b) Accept gifts, grants and other sources of money to pay the costs ~~*[associated with a program established pursuant to paragraph (a).]*~~ ***to assist persons to connect to the public water or sewer system.***

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1 must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to persons to connect to a public water or sewer system furthers a legitimate public purpose.

3. If a board of county commissioners establishes a program to provide financial assistance pursuant to subsection 1, the board:

(a) Must establish a plan for the management and protection of the groundwater in the water basin to which the program to provide financial assistance applies. Such a plan must include, without limitation, provisions for the sustainable management of ~~*[the use of the groundwater]*~~ ***municipal wells that are owned by the county in the water basin .*** ~~*[by residents of the county and other users of water in the county.]*~~

(b) Except as otherwise provided in subsection 4, may set forth conditions or limitations on any financial assistance provided pursuant to the program.

4. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants , gifts or loans, or any combination thereof.

(b) May only be used to pay the necessary and actual expenses to:

(1) Disconnect from a private water or sewer system;

(2) Eliminate a private water or sewer system; and

(3) Connect to the public water or sewer system.

5. A board may not establish a program to provide financial assistance pursuant to subsection 1 unless the board finds that establishing such a program is necessary to provide the public with a safe and reliable water and sewer system.

6. The requirements of NRS 244.3655 do not apply to actions taken by a board of county commissioners pursuant to this section.

7. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

8. As used in this section [, "] :

(a) "Private water or sewer system" means an on-site:

(1) Domestic well, and any facility or facilities related thereto, that provides potable water; or

(2) Sewage or septic system, and any facility or facilities related thereto, that serves a residential dwelling unit for the disposal, collection, storage or treatment of sewage.

(b) "Public water or sewer system" means a facility or facilities for the collection, pumping, treatment, storage or conveyance of potable water or sewage and includes, without limitation, mains, conduits, aqueducts, pipes, pipelines, ditches, canals, pumping stations, and all appurtenances, equipment and machinery necessary or useful and convenient for obtaining, storing, transporting or transferring water or sewage.

Sec. 3. ***1. Except as otherwise provided in this section, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may:***

(a) Establish by ordinance a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage.

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph (a).

(c) Pay costs associated with a program established pursuant to paragraph (a) through the use of:

(1) Revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program.

(2) Funds from the infrastructure fund of the county.

(3) Gifts, grants and other sources of money available to the board of county commissioners.

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1:

(a) Must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.

(b) May include a provision that the award of financial assistance is subject to any limitation or condition that the board determines is necessary.

3. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the actual and necessary costs to make private or public property resistant to flood damage, including, without limitation, flood-proofing the property, erecting barriers, elevating foundations of buildings, structures or improvements, and relocating buildings, structures or improvements to areas that are not likely to be flooded.

(c) May not be awarded:

(1) To protect any building, structure or improvement unless the building, structure or improvement exists or construction has begun on the building, structure or improvement on or before July 1, 2009.

(2) To relocate any building, structure or improvement to property that is also in an area likely to be flooded.

(3) Unless the property owner:

(I) Submits an application for financial assistance on or before June 30, 2019.

(II) Has not received and agrees not to apply for any further financial assistance to make his property resistant to flood damage from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.

(III) Satisfies any conditions adopted by the board of county commissioners.

4. The board of county commissioners may delegate its authority to administer a program of financial assistance established pursuant to this section to a flood management authority.

5. The board of county commissioners or, if the board has delegated its authority to administer a program of financial assistance pursuant to

subsection 4, a flood management authority may bring an action against the property owner for the collection of any delinquent payments, charges, fees, interest or penalties related to any loan provided pursuant to a program established pursuant to this section.

6. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

7. As used in this section:

(a) "Drainage and flood control project" has the meaning ascribed to it in NRS 244A.027.

(b) "Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

(c) "Flood management project," or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:

(1) A drainage and flood control project;

(2) A project to construct, repair or restore an ecosystem;

(3) A project to mitigate any adverse effect of flooding or flood management activity or improvement;

(4) A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

(5) A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

(6) A park project that is related to a flood management project;

(7) Any landscaping or similar amenity that is constructed:

(I) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(II) To mitigate any adverse effect on the environment relating to a flood management project;

(8) A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

(9) A project to protect and manage a floodplain;

(10) A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including,

without limitation, any monitoring, measurement or assessment of that system; and

(11) Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management, or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 4. NRS 244.36605 is hereby amended to read as follows:

244.36605 ***1. In a county whose population is 100,000 or more but less than 400,000, if the county provides financial assistance through a program established pursuant to section 2 or 3 of this act, the board of county commissioners may elect by ordinance to have delinquent repayments of loans, including, without limitation, charges, fees, interest and penalties, collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:***

(a) A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

(b) The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, not later than June 1.

2. In a county whose population is less than 400,000:

~~[~~1.~~]~~ ***(a)*** The board of county commissioners of a county which provides sewerage, storm drainage or water service, or any combination of those services, may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

~~[~~(a)~~]~~ ***(1)*** A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

~~[~~(b)~~]~~ ***(2)*** The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, no later than June 1.

~~[~~2.~~]~~ ***(b)*** The powers authorized by this section are alternative to all other powers of the county for the collection of such delinquent charges ~~[~~.

3.~~]~~ ***or repayments.***

(c) The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by him.

~~[4.]~~ ***(d)*** The amount of any such delinquent charge ***or repayment*** constitutes a lien against the lot or parcel of land or mobile or manufactured home against which the charge has been imposed as of the time when the lien of taxes on the roll or on mobile or manufactured homes attach.

~~[5.]~~ ***(e)*** Except as otherwise provided in ~~[subsection 7,]~~ ***paragraph (g),*** the tax receiver of the county shall include the amount of the delinquent charges ***or repayments*** on bills for taxes levied against the respective lots and parcels of land or mobile or manufactured homes, as applicable. Thereafter the amount of the delinquent charges ***or repayments*** must be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county.

~~[6.]~~ ***(f)*** All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to delinquent charges ~~[for services]~~ ***or repayments*** that are collected in the manner authorized by this section.

~~[7.]~~ ***(g)*** The tax receiver of the county may issue separate bills for delinquent charges ***or repayments*** that are collected in the manner authorized by this section and separate receipts for collection on account of those charges.

Sec. 5. NRS 377B.160 is hereby amended to read as follows:

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the

manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; ~~[or]~~

(d) ***Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property resistant to flood damage that is established pursuant to section 3 of this act; or***

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 54.

Remarks by Assemblywoman Kirkpatrick.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Senate Bill No. 31.
Bill read third time.
Remarks by Assemblywoman Smith.
Madam Speaker requested the privilege of the Chair for the purpose of making remarks.
Roll call on Senate Bill No. 31:
YEAS—41.
NAYS—None.
EXCUSED—Grady.
Senate Bill No. 31 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 73.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Bill No. 73:
YEAS—41.
NAYS—None.
EXCUSED—Grady.
Senate Bill No. 73 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 183.
Bill read third time.
Roll call on Senate Bill No. 183:
YEAS—33.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—8.
EXCUSED—Grady.
Senate Bill No. 183 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 41.
Bill read third time.

Assemblyman Conklin moved that the Assembly recess subject to the call of the Chair.
Motion carried.

Assembly in recess at 5:25 p.m.

ASSEMBLY IN SESSION

At 5:30 p.m.
Madam Speaker presiding.
Quorum present.

Remarks by Assemblyman Aizley.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved to waive a portion of Assembly Standing Rule No. 23, which requires individual disclosure, for purposes of a group disclosure.

Motion carried.

ASSEMBLYMAN CONKLIN:

For the purposes of Rule No. 23, we would like to disclose that we are public employees that participate in the Public Employee Retirement System. Under Rule No. 23, we determine that our interest as a result of the participation does not impede our independence of judgment, because our interest is no greater than the interest of any other participant in PERS. Therefore, the following people will be voting on the bill: Ms. Dondero Loop, Ms. McClain, Ms. Leslie, Mr. Anderson, Mr. Segerblom, Mr. Denis, Ms. Parnell, Mr. Stewart, Mr. Oceguera, Mr. Atkinson, Mr. Grady, Mr. Carpenter, Mr. Settelmeyer, Mr. Goicoechea, Ms. Koivisto, Ms. Woodbury, Ms. Kirkpatrick, Mr. Gustavson, Mr. Munford, Ms. Spiegel, Ms. Mastroluca, Mr. Arberry, Mr. Aizley, and Ms. Buckley.

GENERAL FILE AND THIRD READING

Roll call on Senate Bill No. 41:

YEAS—41.

NAYS—None.

EXCUSED—Grady.

Senate Bill No. 41 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 488.

The following Senate amendment was read:

Amendment No. 859.

AN ACT relating to public employees' retirement; revising provisions governing the allowances that may be paid to a retired public employee who accepts employment or an independent contract with a public employer in a position for which there is a critical labor shortage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified from receiving allowances under the System for the duration of that employment or contract

under certain circumstances. (NRS 286.520) Existing law also provides an exception to this disqualification from receipt of allowances if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception under existing law is scheduled to expire on June 30, 2009. (Chapter 316, Statutes of Nevada 2005, p. 1077) This bill extends the prospective expiration of this exception to June 30, 2015. **Section 4** of this bill revises the criteria which must be considered by a designating authority in determining whether to designate a position for which there is a critical labor shortage. **Section 4** also requires the designating authority to submit written findings of the determination to the Public Employees' Retirement Board on a form prescribed by the Board. The Board must compile the forms and submit a biennial report of the compilation to the Interim Retirement and Benefits Committee of the Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 286.523 is hereby amended to read as follows:

286.523 1. ***It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.***

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

~~[2.]~~ ***3.*** A retired employee who is reemployed under the circumstances set forth in subsection ~~[1]~~ ***2*** may reenroll in the System as provided in NRS 286.525.

~~[3.]~~ ***4.*** Positions for which there are critical labor shortages must be determined ***in an open public meeting held by the designating authority*** as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The ~~[Department of Education]~~ ***board of trustees of each school district*** shall designate positions ~~[with the various school districts]~~ ***within the school district*** for which there are critical labor shortages.

(e) ~~*[Each entity which is authorized to sponsor charter schools pursuant to NRS 386.515]*~~ ***The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages .*** ~~*[for the charter schools that it sponsors.]*~~

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

~~[(f)]~~ ***(g)*** The Board shall designate positions within the System for which there are critical labor shortages.

~~[4.]~~ ***5.*** In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall ~~[give consideration to:]~~ ***make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:***

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings ~~[.]~~ ***after all other efforts of recruitment have been exhausted;***

(c) The length of time the position has been vacant; ~~[and~~

~~(d) The success of recruiting persons in other states to fill the position.~~

~~5.]~~ ***(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and***

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection ~~[3]~~ ***4*** as a position for which there is a critical labor shortage for a

period longer than 2 years. To be redesignated as such a position, the designating authority must consider ***and make new findings in an open public meeting as to*** whether the position continues to meet the criteria set forth in subsection **~~[4.]~~ *5.***

Sec. 5. Section 9 of chapter 490, Statutes of Nevada 2001, as amended by section 2 of chapter 316, Statutes of Nevada 2005, at page 1077, is hereby amended to read as follows:

Sec. 9. **~~[1.]~~** This act becomes effective on July 1, 2001.

~~[~~~~2. Section 1 of this act expires by limitation on June 30, 2005.~~**~~]~~**

Sec. 6. The Public Employees' Retirement Board shall conduct an experience study on the Public Employees' Retirement System of the employment of retired public employees by public employers that participate in the Public Employees' Retirement System pursuant to NRS 286.523, as amended by section 4 of this act, for the period beginning on July 1, 2009, and ending on June 30, 2014. The Public Employees' Retirement Board shall submit a report of the study to the Interim Retirement and Benefits Committee of the Legislature on or before December 31, 2014.

Sec. 7. NRS 286.523 is hereby repealed.

Sec. 8. 1. This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

2. Section 7 of this act becomes effective on June 30, 2015.

TEXT OF REPEALED SECTION

286.523 Employment of retired employee: Exception for reemployment of certain retired employees to fill positions for which critical labor shortage exists; determination and designation of such positions; limitation on length of designation of position.

1. It is the policy of this State to ensure that the reemployment of a retired public employee pursuant to this section is limited to positions of extreme need. An employer who desires to employ such a retired public employee to fill a position for which there is a critical labor shortage must make the determination of reemployment based upon the appropriate and necessary delivery of services to the public.

2. The provisions of subsections 1 and 2 of NRS 286.520 do not apply to a retired employee who accepts employment or an independent contract with a public employer under the System if:

(a) He fills a position for which there is a critical labor shortage; and

(b) At the time of his reemployment, he is receiving:

(1) A benefit that is not actuarially reduced pursuant to subsection 6 of NRS 286.510; or

(2) A benefit actuarially reduced pursuant to subsection 6 of NRS 286.510 and has reached the required age at which he could have retired with a benefit that was not actuarially reduced pursuant to subsection 6 of NRS 286.510.

3. A retired employee who is reemployed under the circumstances set forth in subsection 2 may reenroll in the System as provided in NRS 286.525.

4. Positions for which there are critical labor shortages must be determined in an open public meeting held by the designating authority as follows:

(a) Except as otherwise provided in this subsection, the State Board of Examiners shall designate positions in State Government for which there are critical labor shortages.

(b) The Supreme Court shall designate positions in the Judicial Branch of State Government for which there are critical labor shortages.

(c) The Board of Regents shall designate positions in the Nevada System of Higher Education for which there are critical labor shortages.

(d) The board of trustees of each school district shall designate positions within the school district for which there are critical labor shortages.

(e) The governing body of a charter school shall designate positions within the charter school for which there are critical labor shortages.

(f) The governing body of a local government shall designate positions with the local government for which there are critical labor shortages.

(g) The Board shall designate positions within the System for which there are critical labor shortages.

5. In determining whether a position is a position for which there is a critical labor shortage, the designating authority shall make findings based upon the criteria set forth in this subsection that support the designation. Before making a designation, the designating authority shall consider all efforts made by the applicable employer to fill the position through other means. The written findings made by the designating authority must include:

(a) The history of the rate of turnover for the position;

(b) The number of openings for the position and the number of qualified candidates for those openings after all other efforts of recruitment have been exhausted;

(c) The length of time the position has been vacant;

(d) The difficulty in filling the position due to special circumstances, including, without limitation, special educational or experience requirements for the position; and

(e) The history and success of the efforts to recruit for the position, including, without limitation, advertising, recruitment outside of this State and all other efforts made.

6. A designating authority that designates a position as a critical need position shall submit to the System its written findings which support that designation made pursuant to subsection 5 on a form prescribed by the System. The System shall compile the forms received from each designating authority and provide a biennial report on the compilation to the Interim Retirement and Benefits Committee of the Legislature.

7. A designating authority shall not designate a position pursuant to subsection 4 as a position for which there is a critical labor shortage for a

period longer than 2 years. To be redesignated as such a position, the designating authority must consider and make new findings in an open public meeting as to whether the position continues to meet the criteria set forth in subsection 5.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 488.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 141.

The following Senate amendment was read:

Amendment No. 650.

AN ACT relating to mortgage lending; establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.8494)

Section 3 of this bill creates the Fund. **Section 4** of this bill provides for money for the Fund. **Sections 5-7 and 9-11** of this bill provide for administration of the Fund and payment of claims against the Fund. **Section 8** of this bill requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. **Section 12** of this bill clarifies that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee. **Section 13** of this bill authorizes the Commissioner of Mortgage Lending to adopt regulations as needed for chapter 645F of NRS.

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, "Fund" means the Mortgage Education, Research and Recovery Fund created by section 3 of this act.***

Sec. 3. ***1. The Mortgage Education, Research and Recovery Fund is hereby created as a special revenue fund.***

2. A balance of not less than $300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under chapters 645B and 645E of NRS as provided in sections 2 to 12, inclusive,

of this act. Any balance over $300,000 remaining in the Fund at the end of any fiscal year must be set aside and used by the Commissioner for education and research relating to mortgages.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

Sec. 4. ***The Commissioner shall adopt regulations prescribing a*** ~~*[percentage of]*~~ ***fee, in addition to the fees collected for the issuance or renewal of a license pursuant to chapters 645B and 645E of NRS , to be assessed at the time of issuance or renewal of a license and to be used for mortgage education, research and recovery. The*** ~~*[amount]*~~ ***additional fee must be deposited in the State Treasury for credit to the Fund, and must be used solely for the purposes provided in sections 2 to 12, inclusive, of this act.***

Sec. 5. ***1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to chapter 645B or 645E of NRS, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than $25,000 per judgment. The liability of the Fund does not exceed $100,000 for any person licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.***

2. A person who is licensed pursuant to chapter 645B or 645E of NRS may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.

3. A copy of the:

(a) Petition;

(b) Judgment;

(c) Complaint upon which the judgment was entered; and

(d) Writ of execution which was returned unsatisfied,

➥ must be served upon the Commissioner and the judgment debtor and affidavits of service must be filed with the court.

4. Upon the hearing on the petition, the petitioner must show that:

(a) He is not the spouse of the debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of sections 2 to 12, inclusive, of this act.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the

petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.

(f) He has made reasonable efforts to recover damages from each and every judgment debtor.

(g) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

Sec. 6. ***1. Whenever the court proceeds upon a petition as provided in section 5 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.***

2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 2 to 12, inclusive, of this act.

3. The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.

Sec. 7. ***1. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 2 to 12, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions***
of and in accordance with the limitations contained in sections 2 to 12, inclusive, of this act.

2. If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.

Sec. 8. ***If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court***

authorizing payment from the Fund. The license may not be reinstated and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

Sec. 9. ***1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.***

2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.

3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.

4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 8 and 10 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.

Sec. 10. ***When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.***

Sec. 11. ***The failure of a person to comply with any of the provisions of sections 2 to 12, inclusive, of this act shall constitute a waiver of any rights hereunder.***

Sec. 12. ***Nothing contained in sections 2 to 12, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.***

Sec. 13. NRS 645F.250 is hereby amended to read as follows:

645F.250 ***1.*** The Commissioner and the Division shall administer the provisions of this chapter and chapters 645A, 645B and 645E of NRS, subject to administrative supervision by the Director of the Department of Business and Industry.

2. The Commissioner shall adopt any regulations that are necessary to carry out the provisions of this chapter.

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 141.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 22.

The following Senate amendment was read:

Amendment No. 769.

AN ACT relating to trade practices; providing that certain persons may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud; **revising provisions governing the State's system for the registration and protection of trademarks, trade names and service marks; making various changes regarding administration of the system by the Secretary of State; authorizing the Secretary of State to prescribe certain fees; prohibiting certain misleading and deceptive practices; providing remedies and penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

Section 1 of this bill provides that certain persons may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter. **Section 5.5** of this bill defines as a deceptive trade practice knowingly taking advantage of certain persons with an inability to reasonably protect their rights or interests. **Section ~~[14]~~ 59** of this bill allows equitable relief for various actions involving consumer fraud.

Nevada's existing trademark laws, which are administered by the Secretary of State, establish a system for the registration and protection of marks, including trademarks, trade names and service marks. (NRS 600.240-600.450) Nevada's existing trademark laws are based on the Model State Trademark Bill, which was drafted by the International Trademark Association to promote uniformity among state trademark

laws and to harmonize those state laws with the federal Trademark Act of 1946, which is commonly known as the Lanham Act. (15 U.S.C. §§ 1051 et seq.)

Sections 13-57 of this bill amend Nevada's existing trademark laws to account for several changes made to the Model State Trademark Bill and the federal Trademark Act in recent years. This bill provides that the amendments to Nevada's existing trademark laws become effective on October 1, 2010, except that this bill gives the Secretary of State authority upon passage and approval to adopt any regulations necessary for the administration of the trademark laws.

Sections 14, 20, 21 and 30-37 of this bill specify the persons who may register marks in this State and define the types of trademarks, trade names and service marks that may be registered. (NRS 600.250-600.330) Sections 22 and 36 of this bill define when a mark is deemed to be in use in this State and when a mark is deemed to be abandoned. (NRS 600.320)

Sections 15-18 and 55 of this bill protect against misuse or dilution of a famous mark and prohibit certain misleading and deceptive practices which impair the distinctiveness or harm the reputation of a famous mark. (NRS 600.435)

Sections 19 and 23 of this bill provide that to the extent Nevada's trademark laws, as implemented and administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying Nevada's trademark laws.

Existing law establishes the amounts of the fees the Secretary of State is required to collect in administering Nevada's trademark laws. (NRS 600.340, 600.355, 600.360, 600.370, 600.395) Section 24 of this bill requires the Secretary of State to prescribe the amounts of such fees by regulation and also makes such fees nonrefundable. Section 65 of this bill requires the existing amounts of such fees to remain in effect until the Secretary of State prescribes the amounts by regulation.

Sections 25 and 38-50 of this bill revise the requirements and procedures for: (1) filing, amending and reviewing applications for registration of a mark; (2) issuing, correcting, renewing and cancelling registrations; and (3) filing and recording assignments, name changes and other documents related to a registered mark, including licenses, security interests and mortgages. (NRS 600.340-600.395)

Sections 26 and 27 of this bill establish requirements for bringing actions to compel registration of a mark and actions for cancellation of the registration of a mark. Section 28 of this bill provides a method for service of process in actions brought against certain nonresident owners of marks.

Section 51 of this bill requires the Secretary of State to adopt regulations defining general classes of goods and services for which a mark may be registered. Section 51 also provides that to the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act. (NRS 600.400)

The other sections of this bill make conforming changes.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to $5,000 per act or violation.

2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:

(a) Was not intentional; and

(b) ~~*[Was technical in nature; and*~~

~~*(c)]*~~ ***Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.***

3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 598.092 is hereby amended to read as follows:

598.092 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all

parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 8. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the Consumer Affairs Division of the Department of Business and Industry, of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.*** An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General ~~[,]~~ and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 11. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act:***

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used

to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and section 1 of this act;*** or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 12. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 13. **Chapter 600 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 28, inclusive, of this act.**

Sec. 14. ***1. "Business or legal entity" means any form of business or social organization and any other nongovernmental legal entity, including,***

but not limited to, a corporation, limited-liability company, partnership, association, trust, union, joint venture or unincorporated organization.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 15. "Dilution by blurring" means the association arising from the similarity between a mark and a famous mark that impairs the distinctiveness of the famous mark.

Sec. 16. "Dilution by tarnishment" means the association arising from the similarity between a mark and a famous mark that harms the reputation of the famous mark.

Sec. 17. "Dilution of a famous mark" means dilution by blurring or dilution by tarnishment, regardless of the presence or absence of:

1. Competition between the owner of the famous mark and other parties;

2. Actual or likely confusion, mistake or deception; or

3. Actual economic injury.

Sec. 18. "Famous mark" means a mark that is famous in this State pursuant to the criteria set forth in NRS 600.435.

Sec. 19. "Federal Trademark Act" means the federal Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051 et seq., which is commonly known as the Lanham Act.

Sec. 20. "Owner of a mark" or "owner" means a person who is the owner of a mark and the legal representatives, successors or assigns of such a person.

Sec. 21. 1. "Person" means a natural person or a business or legal entity.

2. The term does not include a government, governmental agency or political subdivision of a government.

Sec. 22. For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a mark is deemed to be "abandoned" when either of the following occurs:

1. When use of the mark has been discontinued with the intent not to resume such use. Intent not to resume use may be inferred from the circumstances. Nonuse of the mark for 2 consecutive years constitutes prima facie evidence of abandonment.

2. When any course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

Sec. 23. 1. The provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act must be interpreted and applied to provide in this State a system of registration and protection of marks that is substantially consistent with the federal system of registration and protection of marks pursuant to the federal Trademark Act.

2. To the extent that the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, as implemented and

administered by the Secretary of State, are substantially consistent with the federal Trademark Act, the interpretation and application given to the federal Trademark Act must be considered to be persuasive authority in interpreting and applying the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 24. 1. The Secretary of State shall, by regulation, prescribe the amount of the fees that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

2. Unless otherwise specified by the Secretary of State, the fees payable pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act are nonrefundable.

3. The Secretary of State may adopt any other regulations that are necessary for the administration of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 25. 1. After an applicant files an application for registration of a mark and pays the required fees, the Secretary of State may review the application for conformity with the provisions of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

2. The applicant:

(a) Shall provide any additional pertinent information regarding the application that is requested by the Secretary of State, including, but not limited to, a description or depiction of a design mark; and

(b) Except as otherwise provided in this paragraph, may submit amendments to the application as may be reasonably requested by the Secretary of State or deemed by the applicant to be advisable in response to any objection made by the Secretary of State. In lieu of allowing or making any amendments to the application, the Secretary of State may require the applicant to submit a new or corrected application.

3. The Secretary of State may require the applicant to disclaim an unregisterable component of a mark that is otherwise registerable, and an applicant may voluntarily disclaim a component of a mark that is otherwise registerable. If the applicant disclaims a component of a mark, the disclaimer does not prejudice or affect the rights of the applicant then existing or thereafter arising, either as an applicant or registrant, in the disclaimed matter or the right to seek registration in another application if the disclaimed matter is or becomes distinctive of the goods or services of the applicant.

4. Except as otherwise provided in subsection 5, if the Secretary of State finds that a mark is not entitled to registration:

(a) The Secretary of State shall notify the applicant and specify the reasons for the finding;

(b) The applicant shall have a reasonable period, as specified by the Secretary of State, in which to respond to the finding or to amend the application; and

(c) If the applicant responds to the finding or amends the application, the Secretary of State shall reexamine the application. The Secretary of State and the applicant shall repeat this procedure until:

(1) The Secretary of State determines that any further response or amendment by the applicant will not change the result and issues a final decision denying registration of the mark; or

(2) The applicant fails to respond or amend the application within the specified period, at which time the application shall be deemed to be abandoned.

5. If the Secretary of State is concurrently processing two or more applications seeking registration of the same or confusingly similar mark for the same or related goods or services, the Secretary of State shall grant priority to the applications in the order in which they were filed. If the Secretary of State issues a certificate of registration for a mark in an earlier-filed application, the Secretary of State shall deny registration of the marks in the later-filed applications. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark in a later-filed application pursuant to this subsection, the applicant may bring an action for cancellation of the registration of the mark in the earlier-filed application upon grounds of prior or superior rights to the mark in accordance with section 27 of this act.

Sec. 26. 1. If an applicant is aggrieved by a final decision of the Secretary of State denying registration of a mark, the applicant may bring an action for a writ of mandamus to compel registration of the mark.

2. The applicant must file the action for a writ of mandamus within 30 days after service of the final decision of the Secretary of State.

3. The court's review of the final decision of the Secretary of State denying registration of the mark must be based solely upon the record before the Secretary of State.

4. If the applicant proves that all the statements in the application are true and that the mark is otherwise entitled to registration, the court shall grant appropriate relief compelling registration of the mark, but without costs to the Secretary of State.

Sec. 27. 1. If a person is aggrieved by the registration of a mark in this State, the person may bring an action for cancellation of the registration of the mark.

2. To bring an action for cancellation of the registration of the mark, the person must:

(a) Name the owner of the mark as the respondent; and

(b) Institute the action by filing a petition in the district court in and for Carson City, in and for the county in which the owner resides or in and for a county where the mark is in use in this State.

3. When the person bringing the action serves the respondent with the petition, the person also must serve the Secretary of State with a copy of the petition in the manner prescribed by Rule 5 of the Nevada Rules of Civil

Procedure. The Secretary of State is not a necessary and indispensable party to the action under Rule 19 of the Nevada Rules of Civil Procedure, and the person bringing the action may not name the Secretary of State as a party to the action.

Sec. 28. ***In any action brought pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act against a nonresident owner of a mark, if the nonresident owner has not appointed an agent for service of process:***

1. The Secretary of State shall be deemed to be an agent of the nonresident owner for the purposes of service of process in the action; and

2. Service of process may be made upon the Secretary of State as the agent of the nonresident owner in accordance with the procedures established by law for service upon a nonresident business or legal entity.

Sec. 29. **NRS 600.240 is hereby amended to read as follows:**

600.240 As used in NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 600.250 to ~~[600.320,]~~ ***600.310,*** inclusive, ***and sections 14 to 21, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 30. **NRS 600.250 is hereby amended to read as follows:**

600.250 "Applicant" means ~~[the person filing]~~ ***a person who files*** an application for registration of a ~~[trademark, his]~~ ***mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the*** legal representatives, successors or assigns ~~[.]~~ ***of such a person.***

Sec. 31. **NRS 600.260 is hereby amended to read as follows:**

600.260 "Mark" ~~[includes]~~ ***means*** any trademark ~~[, trade name]~~ or service mark ***, including any trademark or service mark that also functions as a trade name,*** entitled to registration ***pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,*** whether registered or not.

Sec. 32. **NRS 600.280 is hereby amended to read as follows:**

600.280 "Registrant" ~~[includes]~~ ***means*** the person to whom ***the Secretary of State issues*** the ***certificate of*** registration of a mark ~~[is issued, his]~~ ***pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, and the*** legal representatives, successors or assigns ~~[.]~~ ***of such a person.***

Sec. 33. **NRS 600.290 is hereby amended to read as follows:**

600.290 "Service mark" means ~~[a mark used in the sale or advertising of services]~~ ***any word, name, symbol or device, or any combination thereof, used by a person*** to identify ***and distinguish*** the services of ~~[one person and distinguish them]~~ ***that person, including a unique service,*** from the services of others ~~[.]~~ ***, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person and other distinctive features of radio or television programs may be registered as service marks***

notwithstanding that the titles, character names or programs may advertise the goods of the sponsor.

Sec. 34. **NRS 600.300 is hereby amended to read as follows:**

600.300 "Trademark" means any word, name, symbol or device, or any combination ~~[of them, adopted and]~~ ***thereof,*** used by a person to identify ***and distinguish the*** goods ~~[made]~~ ***manufactured*** or sold by ~~[him and to distinguish them]~~ ***that person, including a unique product,*** from ***the*** goods ~~[made]~~ ***manufactured*** or sold by others ~~[.]~~ ***, and to indicate the source of the goods, even if that source is unknown.***

Sec. 35. **NRS 600.310 is hereby amended to read as follows:**

600.310 "Trade name" means ~~[a word, symbol, device, or any combination of them,]~~ ***any word or name*** used by a person to identify ~~[his]~~ ***the*** business, vocation or occupation ~~[and distinguish it from the business, vocation or occupation of others.]~~ ***of that person.***

Sec. 36. **NRS 600.320 is hereby amended to read as follows:**

600.320 ***For the purposes of NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act:***

1. "Use" means the bona fide use of a mark in the ordinary course of trade. The term does not include use made merely to reserve a right in a mark.

2. A mark is deemed to be ~~["used"]~~ ***in "use"*** in this State:

~~[1.]~~ ***(a)*** On goods when ~~[it]~~ ***the mark*** is placed in any manner on the goods, their containers, the displays associated with them or on the tags or labels affixed to them ***or, if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale,*** and the goods are sold or ~~[otherwise distributed in the]~~ ***transported in commerce in this*** State; and

~~[2.]~~ ***(b)*** On services when ~~[it]~~ ***the mark*** is used or displayed in the sale or advertising of services and the services are rendered in this State.

Sec. 37. **NRS 600.330 is hereby amended to read as follows:**

600.330 A mark must not be registered if it:

1. Contains immoral, deceptive or scandalous matter.

2. Contains matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs ~~[,]~~ ***or*** national symbols or which may bring them into contempt or disrepute.

3. Resembles or simulates the flag ***, the coat of arms*** or other insignia of the United States, or of any state or municipality, or of any foreign nation.

4. Contains the name, signature or portrait of any living person, except when ~~[his]~~ ***the*** written consent ***of the person*** has been obtained.

5. Consists of a mark which:

(a) When applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them;

(b) When applied to the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(c) Is primarily merely a surname,

➥ but this subsection does not prevent the registration of a mark used by the applicant which has become distinctive of the applicant's goods or services. Proof of continuous use of the mark by the applicant in this State or elsewhere for 5 years next preceding the date of the filing of the application for registration may be accepted by the Secretary of State as evidence that the mark has become distinctive.

6. So resembles a mark registered in this State which has not been abandoned ~~[.]~~ that it is likely that confusion, mistake or deception may result.

Sec. 38. **NRS 600.340 is hereby amended to read as follows:**

600.340 1. A person who has adopted and is using a mark in this State may file in the Office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

(a) Whether the mark to be registered is a trademark, trade name or service mark;

(b) A description of the mark by name, words displayed in it or other information;

(c) The name and business address of the person applying for the registration and, if it is a corporation, limited-liability company, limited partnership or registered limited-liability partnership, the state of incorporation or organization;

(d) The specific goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with those goods or services and the class as designated by the Secretary of State which includes those goods or services;

(e) The date when the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business which must precede the filing of the application; and

(f) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as might deceive or cause mistake.

2. The application must:

(a) Be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Be accompanied by a specimen or facsimile of the mark on white paper that is 8 1/2 inches by 11 inches in size and by a filing fee ~~[of $100 payable to the Secretary of State.]~~ ***in the amount prescribed pursuant to section 24 of this act.***

3. If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 39. **NRS 600.340 is hereby amended to read as follows:**

600.340 1. ~~[A]~~ ***Subject to the limitations set forth in NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act, a*** person who has adopted and is using a mark in this State may file in the Office of

the Secretary of State, on a form ~~[to be furnished]~~ ***prescribed*** by the Secretary of State, an application for registration of that mark ***.*** ~~[setting forth,]~~ ***The application must include,*** but ***is*** not limited to, the following information:

(a) ~~[Whether the mark to be registered is a trademark, trade name or service mark;~~

~~(b) A description]~~ ***An identification*** of the mark by name, words displayed in it or other information ~~[,]~~ ***necessary to specify the elements for which trademark or service mark protection is sought.***

(b) A drawing or other representation of the mark which complies with such requirements as the Secretary of State may specify. The drawing must depict the mark sought to be registered in:

(1) Standard typed characters if the mark is a word mark; or

(2) A special form drawing if the mark features design elements, special fonts, color or other noncharacter elements.

➥ After registration, the registrant may not change the drawing of the mark if the change constitutes a material alteration of the mark such that the altered mark creates a different commercial impression and those persons on notice of the original registration would need a new notice to be adequately informed of the registrant's claim of rights.

(c) The name and business address of the person applying for the registration and, if ~~[it]~~ ***the person*** is a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ ***business or legal entity,*** the state of incorporation or organization ~~[,]~~ ***and the names of the officers, general partners or managing members of the business or legal entity, as specified by the Secretary of State.***

(d) The specific goods or services ***on or*** in connection with which the mark is used and the mode or manner in which the mark is used ***on or*** in connection with those goods or services and the class as designated by the Secretary of State ***pursuant to NRS 600.400*** which includes those goods or services ***.*** ~~[;]~~

(e) The date when the mark was first used anywhere and the date when ~~[it]~~ ***the mark*** was first used in this State by the applicant or ~~[his]~~ ***the applicant's*** predecessor in ~~[business which]~~ ***interest, provided that the date when the mark was first used in this State*** must precede the filing of the application ***.*** ~~[; and]~~

(f) A statement that ~~[the]~~ ***:***

(1) The applicant is the owner of the mark ***;***

(2) The mark is in use in this State; and ~~[that]~~

(3) To the knowledge of the person signing the application, no other person ~~[has]~~ ***:***

(I) Holds a federal or Nevada state registration for the mark for similar goods or services with a filing date that predates the applicant's first use of the mark in this State; or

(II) Has the right to use the mark in this State either in the form set forth in the application or in such near resemblance to it as ~~[might deceive or cause mistake.]~~ ***to be likely, when applied to the goods or services of the other person, to cause confusion, mistake or deception.***

2. ***The Secretary of State may require the applicant to submit with the application a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or the applicant's predecessor in interest with the United States Patent and Trademark Office. If such a statement is required, the statement must set forth full particulars with respect to each application, including, but not limited to:***

(a) The filing date, serial number and current status of each application; and

(b) If any application resulted in the mark being denied registration or otherwise resulted in the mark not being registered, the reasons for the denial or the mark not being registered.

3. The application must ~~[:~~

~~(a) Be signed]~~ ***be:***

(a) Signed and verified ***under penalty of perjury*** by the applicant or ***, if the applicant is a business or legal entity,*** by ~~[a]~~ ***a natural person with legal authority to bind the business or legal entity, including, but not limited to:***

(1) An officer, general partner or managing member of the ~~[firm or an officer of the corporation or association applying.~~

~~(b) Be accompanied]~~ ***business or legal entity;***

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(b) Accompanied by a specimen ~~[or facsimile of]~~ ***which shows*** the mark ~~[on white paper that is 8 1/2 inches by 11 inches in size and]~~ ***as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and***

(c) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

~~[3.]~~ ***4.*** If the application fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 40. **NRS 600.343 is hereby amended to read as follows:**

600.343 1. A specimen accompanying an application for ~~[the]~~ registration of a mark ***or an application for renewal of the registration*** must meet the following criteria:

(a) The specimen must ~~[agree]~~ **:**

(1) Agree with the mark as described in the application ~~[, must agree]~~ ***for registration of the mark or as depicted in the drawing or other representation of the mark included with that application;***

(2) Agree with the mark as used ~~[, and evidence]~~ ***; and***

(3) Evidence use of the mark.

(b) ~~[If the specimen is a drawing, it must be a substantially exact representation of the mark as actually used.~~

~~(c)]~~ The specimen must fit on a page of paper ~~[not larger than]~~ ***that measures*** 8 1/2 inches by 11 inches.

~~[(d) A specimen may be a facsimile or photograph of the mark.~~

~~(e)]~~

(c) The specimen must be suitable for reproduction, retention and retrieval.

2. ~~[After registration, an applicant may not change the specimen if the change constitutes a material alteration of the mark.]~~ ***A specimen may be a facsimile or photograph of the mark if the specimen otherwise meets the criteria set forth in subsection 1. Acceptable specimens for goods include, but are not limited to, facsimiles or photographs of labels, tags, packaging or displays associated with the goods. Acceptable specimens for services include, but are not limited to, facsimiles or photographs of brochures, web pages, advertisements or signage associated with the services.***

Sec. 41. **NRS 600.350 is hereby amended to read as follows:**

600.350 1. Upon compliance by the applicant with the requirements ~~[of NRS 600.330 and 600.340,]~~ ***for the registration of a mark pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act,*** the Secretary of State shall issue and deliver a certificate of registration to the applicant. The certificate of registration must be issued under the signature of the Secretary of State and the seal of the State, and it must designate:

(a) The name and business address ***of the owner of the mark*** and, if ***the owner is*** a ~~[corporation, limited liability company, limited partnership or registered limited liability partnership,]~~ ***business or legal entity,*** the state of incorporation or organization ***;*** ~~[of the person claiming ownership of the mark;]~~

(b) The date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this State;

(c) The class of goods or services to which the mark applies;

(d) A description of the goods or services on ***or in connection with*** which the mark is used;

(e) A reproduction of the mark;

(f) The registration date; and

(g) The term of the registration.

~~[~~

2. If a date of first use contained in the application is indefinite, the certificate of registration must designate the latest definite date that can be inferred from the words used. If a month and year are given without specifying the day, the date is presumed to be the last day of the month. If only a year is given, the date is presumed to be the last day of the year.

~~[2.]~~ ***3.*** The certificate of registration or a copy of the certificate certified by the Secretary of State is admissible in evidence as competent and sufficient proof of the registration of the mark in any action or judicial proceedings in any court of this State, and raises a disputable presumption that the person to whom the certificate was issued is the owner of the mark in this State as applied to the goods or services described in the certificate.

Sec. 42. **NRS 600.355 is hereby amended to read as follows:**

600.355 1. If any statement in an application for registration of a mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate, signed by the registrant or his successor or by a member of the firm or an officer of the corporation or association to which the mark is registered, correcting the statement.

2. Upon the filing of a certificate of amendment or judicial decree of amendment and the payment of a filing fee ~~[of $60,]~~ ***in the amount prescribed pursuant to section 24 of this act,*** the Secretary of State shall issue, in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

Sec. 43. **NRS 600.355 is hereby amended to read as follows:**

600.355 1. If ***, after registration of a mark, the registrant discovers that*** any statement in ~~[an]~~ ***the*** application for registration of ~~[a]~~ ***the*** mark was incorrect when made or any arrangements or other facts described in the application have changed, making the application inaccurate in any respect without materially altering the mark, the registrant shall promptly file in the Office of the Secretary of State a certificate ~~[, signed]~~ ***of amendment correcting the application. The certificate of amendment must be:***

(a) Signed and verified under penalty of perjury by the registrant or ~~[his successor or by a member of the firm or an]~~ ***, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:***

(1) An officer ***, general partner or managing member*** of the ~~[corporation or association to which the mark is registered, correcting the statement.]~~ ***business or legal entity;***

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) Accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.

2. ***If, after registration of a mark, a court of competent jurisdiction enters a judicial decree amending the registration, the registrant or the party obtaining the judicial decree of amendment shall promptly file the***

judicial decree of amendment in the Office of the Secretary of State. The judicial decree of amendment must be accompanied by:

(a) A form prescribed by the Secretary of State which must be signed and verified under penalty of perjury by the registrant or the party obtaining the judicial decree or, if the registrant or party is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(b) A filing fee in the amount prescribed pursuant to section 24 of this act.

3. Upon the filing of a certificate of amendment or judicial decree of amendment ~~[and the payment of a filing fee in the amount prescribed pursuant to section 24 of this act,]~~ ***in accordance with this section,*** the Secretary of State shall issue ~~[,]~~ ***to the registrant,*** in accordance with NRS 600.350, an amended certificate of registration for the remainder of the period of the registration.

Sec. 44. **NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration and, upon application filed within 6 months before the expiration of that period, on a form to be furnished by the Secretary of State, the registration may be renewed for a successive period of 5 years. A renewal fee ~~[of $50, payable to the Secretary of State,]~~ ***in the amount prescribed pursuant to section 24 of this act*** must accompany the application for renewal of the registration.

2. The registration of a mark may be renewed for additional successive 5-year periods if the requirements of subsection 1 are satisfied.

3. The Secretary of State shall give notice to each registrant when his registration is about to expire. The notice must be given within the year next preceding the expiration date, by writing to the registrant's last known address.

4. All applications for renewals must include a statement that the mark is still in use in this State.

Sec. 45. **NRS 600.360 is hereby amended to read as follows:**

600.360 1. The registration of a mark is effective for 5 years from the date of registration ***.*** ~~[and, upon application filed]~~

2. Except as otherwise provided in this subsection, upon the filing of an application for renewal of the registration in the Office of the Secretary of State within 6 months before the expiration of ~~[that period,]~~ ***the period of the registration,*** on a form ~~[to be furnished]~~ ***prescribed*** by the Secretary of State,

the registration may be renewed for a successive period of 5 years. ~~[A]~~ ***The Secretary of State may adopt regulations to provide for alternative renewal periods which must not exceed 10 years.***

3. The application for renewal of the registration must:

(a) Include a verified statement that the mark is still in use in this State;

(b) Be signed and verified under penalty of perjury by the registrant or, if the registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia;

(c) Be accompanied by a specimen which shows the mark as actually used on or in connection with the goods or services and which meets the criteria set forth in NRS 600.343; and

(d) Be accompanied by a renewal fee in the amount prescribed pursuant to section 24 of this act***.*** ~~[must accompany the application for renewal of the registration.~~

~~2.]~~ ***4.*** The registration of a mark may be renewed for additional successive ~~[5-year]~~ periods if the requirements of ~~[subsection 1]~~ ***this section*** are satisfied.

~~[3.]~~ ***5.*** The Secretary of State ~~[shall give]~~ ***may provide*** notice to each registrant ~~[when his registration is about to expire. The]~~ ***of the date on which the registrant's registration will expire. If such notice is provided, the*** notice must be given within the ~~[year next]~~ ***12 months immediately*** preceding the expiration date ~~[, by writing]~~ ***and delivered to the registrant by:***

(a) Mail sent to the registrant's last known address ~~[.~~

~~4. All applications for renewals must include a statement that the mark is still in use in this State.]~~ ***; or***

(b) If requested by the registrant, electronic mail or other electronic means.

6. If the application for renewal of the registration fails to comply with this section or NRS 600.343, the Secretary of State shall return it for correction.

Sec. 46. **NRS 600.370 is hereby amended to read as follows:**

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing;

(b) Be signed and acknowledged by the registrant or his successor or a member of the firm or an officer of the corporation or association under whose name the mark is registered; and

(c) Be recorded with the Secretary of State upon the payment of a fee ~~[of $100 to the Secretary of State who, upon]~~ ***in the amount prescribed pursuant to section 24 of this act. Upon*** recording the assignment, ***the Secretary of State*** shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

2. An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice, unless:

(a) The assignment is recorded with the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded before the subsequent purchase.

Sec. 47. **NRS 600.370 is hereby amended to read as follows:**

600.370 1. A mark and its registration are assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. An assignment must:

(a) Be in writing; ***and***

(b) Be signed and acknowledged by the registrant or ~~[his successor or a member of the firm or]~~ ***, if the registrant is a business or legal entity, by*** an officer ***, general partner or managing member*** of the ~~[corporation or association under whose name the mark is registered; and~~

~~(c) Be recorded with]~~ ***business or legal entity.***

2. An assignment may be recorded in the Office of the Secretary of State upon the payment of a ***recording*** fee in the amount prescribed pursuant to section 24 of this act. Upon recording the assignment, the Secretary of State shall issue in the name of the assignee a certificate of assignment for the remainder of the period of the registration.

~~[2.]~~ ***3.*** An assignment of any registration is void as against any subsequent purchaser for valuable consideration without notice ~~[,]~~ unless:

(a) The assignment is recorded ~~[with]~~ ***in the Office of*** the Secretary of State within 3 months after the date of the assignment; or

(b) The assignment is recorded ***in the Office of the Secretary of State*** before the subsequent purchase.

4. An applicant or registrant whose name has changed may record in the Office of the Secretary of State a certificate of change of name. The certificate of change of name must be:

(a) On a form prescribed by the Secretary of State;

(b) Signed and verified under penalty of perjury by the applicant or registrant or, if the applicant or registrant is a business or legal entity, by a natural person with legal authority to bind the business or legal entity, including, but not limited to:

(1) An officer, general partner or managing member of the business or legal entity;

(2) A designated employee of the business or legal entity responsible for its marks; or

(3) An attorney authorized to represent the business or legal entity and licensed to practice law in any state, territory or possession of the United States or the District of Columbia; and

(c) Accompanied by a recording fee in the amount prescribed pursuant to section 24 of this act.

5. Upon recording a certificate of change of name, the Secretary of State shall issue:

(a) In the applicant's new name, a certificate verifying that the name on the application has changed.

(b) In the registrant's new name, an amended certificate of registration for the remainder of the period of the registration.

6. In the discretion of the Secretary of State, other instruments which relate to a registered mark or an application for registration of a mark, including, but not limited to, licenses, security interests or mortgages, may be recorded in the Office of the Secretary of State if the instrument is:

(a) In writing; and

(b) Signed and acknowledged by the parties to the instrument or, if any party is a business or legal entity, by an officer, general partner or managing member of the business or legal entity.

7. If an assignment or other instrument is acknowledged, the acknowledgment is prima facie evidence of the execution of the assignment or other instrument and, if the assignment or other instrument is recorded in the Office of the Secretary of State, the record is prima facie evidence of the execution of the assignment or other instrument.

8. If an assignment or other instrument otherwise meets the requirements for recording, a photocopy of the assignment or other instrument must be accepted for recording if the photocopy is certified as a true and correct copy of the original by a party to the assignment or other instrument or by a party's successor.

Sec. 48. **NRS 600.380 is hereby amended to read as follows:**

600.380 The Secretary of State shall keep for public examination a record of ~~[all registered marks.]~~ ***:***

1. All marks registered or renewed by the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act; and

2. All other documents filed or recorded in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act.

Sec. 49. **NRS 600.390 is hereby amended to read as follows:**

600.390 The Secretary of State shall cancel from the register:

1. ~~[After July 1, 1980, any filing or registration of a mark]~~ ***Any registration which the registrant or the assignee of record voluntarily requests to be cancelled.***

2. Any registration which has expired and is not renewed in accordance with the provisions of NRS 600.360.

~~[2. Any registration which the registrant or the assignee of record voluntarily requests be cancelled.]~~

3. Any registration concerning which a court of competent jurisdiction finds that:

(a) The registered mark has been abandoned.

(b) The registrant is not the owner of the mark.

(c) The registration was granted improperly.

(d) The registration was obtained fraudulently.

(e) ***The registered mark is or has become the generic name for the goods or services, or a portion thereof, for which it has been registered.***

(f) The registered mark is likely to cause confusion or mistake or to deceive because of its similarity to a mark ***which was*** registered by another person in the United States Patent and Trademark Office ~~[,]~~ before the date of the filing of the application for registration by the registrant under NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act*** and ***which has*** not ***been*** abandoned. But if the registrant proves that he is the owner of a concurrent registration of his mark in the United States Patent and Trademark Office covering an area including this State, the registration with the Secretary of State must not be cancelled.

4. Any registration when a court of competent jurisdiction orders cancellation of the registration on any ground.

Sec. 50. **NRS 600.395 is hereby amended to read as follows:**

600.395 ~~[The fee for filing a]~~ ***If a person requests*** cancellation of ***a*** registration pursuant to NRS 600.390 ~~[is $50.]~~ ***, the request must be accompanied by a filing fee in the amount prescribed pursuant to section 24 of this act.***

Sec. 51. **NRS 600.400 is hereby amended to read as follows:**

600.400 1. The Secretary of State ~~[may]~~ ***shall*** adopt regulations defining general classes of goods and services for which a mark may be registered. ~~[Classes defined pursuant to this subsection]~~ ***The classes of goods and services adopted by the Secretary of State*** are deemed to be for administrative convenience and must not be deemed to be exclusive or limit or extend the rights of the applicant or registrant. ***To the extent practicable, the classes of goods and services adopted by the Secretary of State must conform to the classes of goods and services adopted by the United States Patent and Trademark Office in the administration of the federal Trademark Act.***

2. A single application for registration of a mark may include any goods within their class on which the mark is used, or any services within their class rendered in connection with the mark. If a mark is used for more than one class of goods or more than one class of services the applicant must file a separate application for each class.

Sec. 52. **NRS 600.410 is hereby amended to read as follows:**

600.410 Any person who **,** for himself **[,]** or on behalf of any other person, attempts to procure or procures the registration of any mark in this State ***or the filing or recording of any document in the Office of the Secretary of State pursuant to NRS 600.240 to 600.450, inclusive, and sections 14 to 28, inclusive, of this act*** by knowingly making any false or fraudulent representation or declaration, verbally or in writing, or by any other fraudulent means, is liable for all damages sustained in consequence of the registration ***or the filing or recording*** to any party injured thereby.

Sec. 53. **NRS 600.420 is hereby amended to read as follows:**

600.420 Any person:

1. Who uses, without the consent of the **[**registrant,**]** ***owner,*** any reproduction, counterfeit, copy or colorable imitation of a mark registered in this State in connection with the sale, ***distribution,*** offering for sale or advertising of any goods or services **[,]** ***on or in connection with*** which ***such*** use is likely to cause confusion or mistake or result in deception as to the source of origin of such goods or services; or

2. Who reproduces, counterfeits, copies or colorably imitates any mark registered in this State and applies or causes to apply that reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used ***on or*** in **[**conjunction**]** ***connection*** with the sale or other distribution in this State of goods or services,

➥ is liable in a civil action by the owner of the registered mark for any or all of the remedies provided in NRS 600.430, except that the owner of the mark is not entitled to recover profits or damages **[**under**]** ***for any act in violation of*** subsection 2 unless the act or acts were committed with **[**knowledge that the reproduction, counterfeit, copy or imitation of the mark was intended to be used**]** ***the intent*** to cause confusion, mistake or deception.

Sec. 54. **NRS 600.430 is hereby amended to read as follows:**

600.430 1. Any owner of a mark registered in this State may proceed by suit to enjoin the manufacture, use, display or sale of counterfeits or imitations of **[**it.**]** ***the mark.***

2. A court of competent jurisdiction may:

(a) Grant injunctions to restrain such manufacture, use, display or sale as it deems just and reasonable under the circumstances;

(b) Require the defendant to pay to the owner ***of the mark*** all profits derived from the wrongful acts of the defendant and all damages suffered by reason of these acts;

(c) Require the defendant to pay to the owner ***of the mark*** treble damages on all profits derived from the willful and wrongful acts of the defendant and treble damages on all damages suffered by reason of these acts; and

(d) Order that any counterfeits or imitations in the possession or control of any defendant be delivered **[**for destruction**]** to an officer of the court or **[**to the complainant.**]** ***the owner of the mark for destruction.***

3. In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees to the prevailing party.

4. The enumeration of any right or remedy in this section does not affect ~~[a registrant's]~~ ***the*** right ***of the owner of the mark*** to prosecute under any penal law of this State.

Sec. 55. **NRS 600.435 is hereby amended to read as follows:**

600.435 1. Except as otherwise provided in subsection 4 ~~[,]~~ ***and subject to the principles of equity,*** the owner of a mark that is famous in this State may bring an action to enjoin commercial use of the mark by a person if such use:

(a) Begins after the mark has become famous; and

(b) ~~[Causes]~~ ***Is likely to cause*** dilution of the ***famous*** mark.

2. ***A mark is famous in this State if it is distinctive, inherently or through acquired distinctiveness, and is widely recognized by the general consuming public of this State or a geographic area in this State as a designation of source of the goods or services of the owner of the mark.*** In determining whether a mark is famous in this State, the court shall consider, ~~[without limitation,]~~ ***but is not limited to,*** the following factors:

(a) The ~~[degree of inherent or acquired distinctiveness of]~~ ***amount, volume and geographic extent of sales of the goods or services offered under*** the mark in this State.

(b) The duration ~~[and extent of use of the mark in connection with the goods and services with which the mark is used.~~

~~(c) The duration and extent of advertisement and promotion of the mark in this State.~~

~~(d) The geographical extent of the trading area in which the mark is used.~~

~~(e) The channels of trade for the goods or services with which the mark is used.~~

~~(f) The degree of recognition of the mark in the trading areas and channels of trade in this State used by the owner of the mark and the person against whom the injunction is sought.~~

~~(g)~~ ***, extent and geographic reach of advertising and publicity of the mark in this State, whether the mark is advertised or publicized by the owner or other persons.***

(c) The extent of actual recognition of the mark in this State.

(d) The nature and extent of use of the same or similar mark by other persons.

~~[(h)]~~ ***(e)*** Whether the mark is registered in this State or registered in the United States Patent and Trademark Office pursuant to federal law.

3. ~~[Except as otherwise provided in this subsection,]~~ ***In an action brought pursuant to this section,*** the owner of a ***famous*** mark ~~[that is famous may obtain only]~~ **:**

(a) Is entitled to injunctive relief ~~[in an action brought pursuant to this section. The owner of a mark that is famous is entitled to the remedies~~

~~provided in NRS 600.430 if~~ ***throughout the geographic area in which the mark is found to be famous, but not outside the borders of this State; and***

(b) If the person ~~using the mark~~ ***against whom the injunctive relief is sought*** willfully intended to cause dilution of the ***famous*** mark or willfully intended to trade on the reputation of the owner of the ***famous*** mark ~~.~~ ***, is entitled to the remedies provided in NRS 600.430, subject to the discretion of the court and the principles of equity.***

4. The owner of a ***famous*** mark ~~that is famous~~ may not bring an action pursuant to this section ~~for the~~ ***based on:***

(a) The fair use of the mark by another person ~~in comparative commercial advertising~~ ***, unless the other person wrongfully uses the mark as a designation of source for the person's own goods or services. For the purposes of this paragraph, fair use of the mark includes any nominative or descriptive fair use, or facilitation of such fair use, by the other person, including, but not limited to, use in connection with:***

(1) Advertising or promotion ~~to identify the~~ ***that permits consumers to compare*** competing goods or services of the owner of the mark ~~.~~

~~5. As used in this section:~~

~~(a) "Commercial use" means use of a mark primarily for profit. The term does not include~~ ***; or***

(2) Identifying and parodying, criticizing or commenting upon the owner of the mark or the goods or services of the owner of the mark.

(b) The noncommercial use of the mark by another person, including, but not limited to, use of ~~a~~ ***the*** mark for research, criticism, news commentary, news reporting, teaching or any similar use that is not primarily for profit.

~~(b) "Dilution" means a lessening in the capacity of a mark that is famous to identify and distinguish goods or services, regardless of the presence or absence of:~~

~~(1) Competition between the owner of the mark and other persons; or~~

~~(2) Likelihood of confusion, mistake or deception as to the source of origin of goods or services.~~

Sec. 56. **NRS 600.440 is hereby amended to read as follows:**

600.440 The rights and remedies enumerated in NRS 600.240 to 600.450, inclusive, ***and sections 14 to 28, inclusive, of this act*** are in addition to those to which an owner of a mark is entitled under the common law.

Sec. 57. **NRS 600.450 is hereby amended to read as follows:**

600.450 1. It is unlawful for any person ***:*** ~~or corporation:~~

(a) To imitate any mark registered as provided in NRS 600.240 to 600.450, inclusive ~~,~~ ***, and sections 14 to 28, inclusive, of this act;***

(b) To use knowingly any counterfeit or imitation thereof;

(c) To use or display such genuine mark unless authorized to do so; or

(d) To use or display such genuine mark in a manner not authorized by the registrant.

2. Any person ~~[violating]~~ ***who violates*** any provision of subsection 1 is guilty of a misdemeanor.

~~[Sec. 13.]~~ ***Sec. 58.*** NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act,*** but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall

be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

~~[Sec. 14.]~~ ***Sec. 59.*** NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; ~~[and]~~

(b) ***Any equitable relief that the court deems appropriate; and***

(c) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

~~[Sec. 15.]~~ ***Sec. 60.*** NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, ***without limitation,*** returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** for the same act. The provisions of this section do not deprive a person injured by a deceptive trade practice from resorting to any other legal remedy.

~~[Sec. 16.]~~ ***Sec. 61.*** NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive.

2. Failure to include in any advertising the name of the licensed dealer, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home or commercial coach.

5. Failure to disclose to a person with whom the licensed dealer is dealing with regard to the sale, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home or commercial coach, within 10 days before the closure of a sale of the manufactured home, mobile home or commercial coach, a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

~~[Sec. 17.]~~ ***Sec. 62.*** NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and section 1 of this act*** concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 63. **NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser must file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant must furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a natural person, the application must include the social security number of the applicant.

3. If the applicant is a business organization, the application must include the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

4. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

5. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~.~~ , ***and sections 14 to 28, inclusive, of this act.***

6. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 64. **NRS 684B.040 is hereby amended to read as follows:**

684B.040 1. An applicant for a license as a motor vehicle physical damage appraiser shall file a written application therefor with the Commissioner on forms prescribed and furnished by the Commissioner. The applicant shall furnish information as to his identity, personal history, experience, financial responsibility, business record and other pertinent matters as reasonably required by the Commissioner to determine the applicant's eligibility and qualifications for the license.

2. If the applicant is a business organization, the application must show the names of all members, officers and directors, and must designate each natural person who is to exercise the licensee's powers. A natural person who is authorized to act for a business organization and who also wishes to be licensed in an individual capacity must obtain a separate license in his own name.

3. The application must be accompanied by the applicable license fee. The Commissioner shall charge a separate fee for each person authorized to act for a business organization.

4. An applicant for a license who desires to use a name other than his true name must comply with the provisions of NRS 683A.301. The Commissioner shall not issue a license in a trade name unless the name has been registered pursuant to NRS 600.240 to 600.450, inclusive ~~.~~ , ***and sections 14 to 28, inclusive, of this act.***

5. An applicant for a license shall not willfully misrepresent or withhold any fact or information called for in the application form or in connection with his application. A violation of this subsection is a gross misdemeanor.

Sec. 65. **Notwithstanding the provisions of this act to the contrary, the amount of each fee that was authorized before the effective date of this act pursuant to NRS 600.340, 600.355, 600.360, 600.370 and 600.395 must remain in effect and must be collected by the Secretary of State until such time as the Secretary of State adopts regulations pursuant to section 24 of this act prescribing the amount of those fees.**

Sec. 66. **The provisions of sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49 and 51 to 57, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2010.**

~~[Sec. 18.]~~ ***Sec. 67.*** **1.** This ~~[act becomes]~~ **section and sections 24, 38, 42, 44, 46, 50, 63 and 65 of this act become effective upon passage and approval.**

2. Sections 1 to 12, inclusive, and 58 to 62, inclusive, of this act become effective on July 1, 2009.

3. Sections 13 to 23, inclusive, 25 to 37, inclusive, 39, 40, 41, 43, 45, 47, 48, 49, 51 to 57, inclusive, and 66 of this act become effective on October 1, 2010.

4. Section 63 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 64 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 22.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 249.

The following Senate amendment was read:

Amendment No. 853.

AN ACT relating to public health; authorizing a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or their breeding places to take certain actions to abate the nuisance; authorizing a district health officer to order an owner of real property to abate and prevent the recurrence of such a nuisance; providing that all money expended by the health district in abating and preventing the recurrence of such a nuisance constitutes a lien upon the property;

authorizing the health district to bring an action to foreclose the lien; providing a district board of health with certain authority relating to the protection of the public health and safety with respect to **residential property,** rental dwelling units **[,] and commercial property;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill provides that the provisions of **sections 1.5-4.5** of this bill apply to any health district created pursuant to NRS 439.362 or 439.370 (currently the Southern Nevada Health District in Clark County and the Washoe County Health District). Existing law authorizes health officers in this State to order the abatement or removal of any nuisance detrimental to the public health. (NRS 439.490) **Section 2** of this bill provides that a district health officer or his designee who orders the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take certain actions to abate the nuisance. **Section 3** of this bill authorizes the district health officer to order the owner of any real property to abate and prevent the recurrence of such a nuisance. The health officer is required to provide notice of the order to the owner by mail addressed to the last known address of the owner. **Section 3** provides that if the owner does not abate the nuisance within the period specified in the order, the health district is required to abate the nuisance and take any action necessary to prevent its recurrence. **Section 4** of this bill provides that all money expended by the health district in abating the nuisance and preventing its recurrence constitutes a lien upon the real property which may be recovered in an action against the property.

Existing law provides that a district board of health may, by affirmative vote of a majority of its members, adopt certain regulations which take effect immediately upon approval of the regulations by the State Board of Health. (NRS 439.366) **Section 4.5** of this bill specifically authorizes a district board of health to adopt regulations relating to any health hazard on residential property **, [or]** any health hazard in a rental dwelling unit **[,] or any health hazard on commercial property. Section 4.5** also authorizes a district board of health to adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of **residential property,** rental dwelling units **[,] and commercial property.** In addition, **section 4.5** authorizes a district board of health, in carrying out its duties relating to the protection of the public health and safety associated with the condition of **residential property,** rental dwelling units **[,] and commercial property,** to take any enforcement action it determines necessary and to establish an administrative hearing process.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 4.5, inclusive, of this act.

Sec. 1.5. ***The provisions of sections 1.5 to 4.5, inclusive, of this act apply to any health district created pursuant to NRS 439.362 or 439.370.***

Sec. 2. ***A district health officer or his designee who issues an order for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof may authorize and take any action necessary to abate the nuisance or prevent its recurrence, including, without limitation:***

1. Abate any stagnant pool of water or other breeding place for mosquitoes, flies, other insects or rats;

2. Treat with oil, other larvicidal material, other chemicals or other material any breeding place of mosquitoes, flies, other insects or rats;

3. Build, construct, repair and maintain necessary dikes, levees, cuts, canals or ditches upon any land, and acquire by purchase, condemnation or other lawful means, in the name of the health district, any land, right-of-way, easement, property or material necessary for the extermination or abatement of mosquitoes, flies, other insects, rats or any breeding place thereof;

4. Enter into contracts to indemnify or compensate any owner of real or other property for any injury or damage caused by the use or taking of property for dikes, levees, cuts, canals or ditches;

5. Enter upon without hindrance any land, within or without the health district, to determine whether breeding places of mosquitoes, flies, other insects or rats exist upon that land; and

6. Determine whether any person subject to an order issued pursuant to section 3 of this act has complied with the order.

Sec. 3. ***1. A district health officer may issue an order requiring an owner of real property to abate and prevent the recurrence of any mosquitoes, flies, other insects, rats or any breeding place thereof by providing notice of the order to the owner by mail addressed to the last known address of the owner. The order must:***

(a) Provide that the owner shall abate the nuisance and prevent its recurrence; and

(b) Specify the period within which the abatement must be completed.

2. If the owner of the real property does not comply with the order within the time specified, the health district shall abate the nuisance and take all necessary steps to prevent its recurrence.

Sec. 4. ***1. All money expended by a health district in abating a nuisance and preventing its recurrence on real property pursuant to section 3 of this act constitutes a lien upon the property and may be recovered by an action against the property.***

2. Notice of the lien must be filed and recorded by the health district in the office of the county recorder of the county in which the property is situated not later than 6 months after the date on which the health district completes the abatement.

3. Any action to foreclose the lien must be commenced not later than 6 months after the filing and recording of the notice of the lien.

4. An action commenced pursuant to subsection 3 must be brought by the health district in the name of the health district.

5. When the property is sold, enough of the proceeds to satisfy the lien and the costs of foreclosure must be paid to the health district and the surplus, if any, must be paid to the owner of the property if known, and if not known, must be paid into the court in which the lien was foreclosed for the use of the owner if ascertained.

Sec. 4.5. ***1. In addition to any other powers, duties and authority conferred on a district board of health, the district board of health may by affirmative vote of a majority of all the members of the board adopt regulations consistent with law, which must take effect immediately on their approval by the State Board of Health, to:***

(a) Regulate any health hazard on residential property; ~~[and]~~

(b) Regulate any health hazard in a rental dwelling unit ~~[.]~~ ; and

(c) Regulate any health hazard on commercial property.

2. The district board of health may adopt regulations to ensure the enforcement of laws that protect the public health and safety associated with the condition of rental dwelling units and to recover all costs incurred by the district board of health relating thereto. Any regulation adopted pursuant to this subsection must be provided by the landlord of a rental dwelling unit to a tenant upon request to ensure that the landlord and the tenant understand their respective rights and responsibilities clearly.

3. In carrying out its duties relating to the protection of the public health and safety associated with the condition of rental dwelling units, the district board of health may:

(a) Take any enforcement action it determines necessary; and

(b) Establish an administrative hearing process, including, without limitation, the hiring of qualified hearing officers.

4. If a tenant of a rental dwelling unit provides written notice to the landlord pursuant to NRS 118A.355 specifying a failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failure and the landlord fails to remedy ~~[a material]~~ the failure or to make a reasonable effort to do so within the time prescribed in NRS 118A.355, the tenant may, in addition to any remedy provided in NRS 118A.355, provide to the district board of health a copy of the written notice that the tenant provided to the landlord. If, upon inspection of the dwelling unit, the district board of health determines that either the landlord or the tenant has failed to maintain the dwelling unit in a habitable condition, the district board of health may refer the matter to the administrative hearing process if established pursuant to subsection 3 or take any action with respect to the dwelling unit which is authorized by this section or the regulations adopted pursuant thereto.

5. Before the adoption, amendment or repeal of a regulation, the district board of health must give at least 30 days' notice of its intended action. The notice must:

(a) Include a statement of either the terms or substance of the proposal or a description of the subjects and issues involved and of the time when, the place where and the manner in which interested persons may present their views thereon;

(b) State each address at which the text of the proposal may be inspected and copied; and

(c) Be mailed to all persons who have requested in writing that they be placed on a mailing list, which must be kept by the board for such purpose.

6. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing, on the intended action to adopt, amend or repeal the regulation. With respect to substantive regulations, the district board of health shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposal and requests an oral hearing, the district board of health may proceed immediately to act upon any written submissions. The district board of health shall consider fully all written and oral submissions respecting the proposal.

7. The district board of health shall file a copy of all of its adopted regulations with the county clerk.

8. As used in this section:

(a) "Commercial property" means any real property which is not used as a dwelling unit and is not occupied as, or designed or intended for occupancy as, a residence or sleeping place.

(b) "Dwelling unit" has the meaning ascribed to it in NRS 118A.080.

~~[(b)]~~ (c) "Health hazard" means any biological, physical or chemical exposure , ~~[or]~~ condition or public nuisance that may adversely affect the health of a person.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.490 is hereby amended to read as follows:

439.490 Every health officer **[**~~shall have authority to~~**]** ***or his designee may*** order the abatement or removal of any nuisance detrimental to the public health in accordance with the laws relating to such matters.

Sec. 8. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 249.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 15.

The following Senate amendment was read:

Amendment No. 774.

AN ACT relating to animals; requiring notice of any sterilization requirements for dogs and cats required by local ordinance to be posted in a

public park and the office of each licensed veterinarian; requiring a retailer or dealer who sells a dog or cat to disclose to the purchaser any sterilization requirements for the animal required by local ordinance; ~~[providing that any local ordinance that requires the sterilization of dogs may not be enforced with respect to certain dogs;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the sterilization of pets that are released by various releasing agencies, including societies to prevent cruelty to animals, animal shelters, nonprofit entities that provide temporary shelter for pets and organizations that take into custody pets which have been abandoned, abused or neglected. (NRS 574.600-574.660) **Section 1** of this bill requires each licensed veterinarian to post in his office written notice of any sterilization requirements for dogs or cats required by local ordinance. **Section 1** further requires a governmental entity with jurisdiction over a public park to post written notice in the park of any sterilization requirements for the animals required by local ordinance. **Sections 2 and 3** of this bill require a retailer or dealer who sells a dog or cat to disclose to the purchaser **the name and address of the breeder of the dog or cat and** any sterilization requirements for the animal required by local ordinance. (NRS 574.460, 574.470) A retailer or dealer who fails to comply with the disclosure requirements is subject to an administrative fine imposed by the Director of the State Department of Agriculture in an amount not to exceed $250 for the first violation, $500 for the second violation and $1,000 for each subsequent violation. (NRS 574.485) ~~[Section 3 also provides that any local ordinance which requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily for hunting, purposes relating to farming or agriculture, breeding or drawing heavy loads, or as a service animal or service animal in training.]~~

Section 4 of this bill provides that a retailer, dealer or operator must not separate a dog or cat from its mother until it is 8 weeks of age or accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500)

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

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

1. A licensed veterinarian shall post written notice in a conspicuous place in his office of any sterilization requirements for dogs or cats required by local ordinance.

2. A governmental entity with jurisdiction over a public park in which dogs or cats are allowed shall post written notice in a conspicuous place in the park of any sterilization requirements for dogs or cats required by local ordinance.

3. As used in this section, "licensed veterinarian" has the meaning ascribed to it in NRS 638.007.

Sec. 2. NRS 574.460 is hereby amended to read as follows:

574.460 1. A retailer or dealer shall, before selling a cat, provide the purchaser of the cat with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the cat was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the cat and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the cat ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the cat's sire and dam with the appropriate breed registry or any health certifications from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the cat before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the cat required by local ordinance.***

(h) The medical history of the cat, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and determined that the cat did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the cat is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the cat pursuant to subsections 1 and 2 of NRS 574.450 and if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the cat, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the cat made pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as

an attestation that he has read and understands the disclosures contained in the statement.

Sec. 3. NRS 574.470 is hereby amended to read as follows:

574.470 1. A retailer or dealer shall, before selling a dog, provide the purchaser of the dog with a written statement that discloses:

(a) The name, address and telephone number of the retailer or dealer.

(b) The date the dog was born, if known.

(c) The name and address of the person from whom the retailer or dealer obtained the dog and, if the person holds a license issued by the United States Department of Agriculture, the person's federal identification number.

(d) The name and address of the breeder of the dog ~~[, if any,]~~ and, if the breeder holds a license issued by the United States Department of Agriculture, the breeder's federal identification number.

(e) The registration numbers, if any, of the dog's sire and dam with the appropriate breed registry or any health certificates from a health certification organization such as the Orthopedic Foundation for Animals or its successor organization, if any.

(f) A record of any immunizations administered to the dog before the time of sale, including the type of vaccine, date of administration and name and address of the veterinarian who prescribed the vaccine.

(g) ***Any sterilization requirements for the dog required by local ordinance.***

(h) The medical history of the dog, including, without limitation:

(1) The date that a veterinarian examined and, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and determined that the dog did not have any illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention. For the purposes of this subparagraph, the presence of internal or external parasites does not constitute an illness, disease or other condition that is terminal or requires immediate hospitalization or immediate surgical intervention, unless the dog is clinically ill as a result of the parasite.

(2) Whether any treatment or medication has been administered by the veterinarian who examined or, if applicable, reexamined the dog pursuant to subsections 1 and 2 of NRS 574.450 and, if such treatment or medication was administered, a statement indicating on what date it was administered and for what illness, disease or condition.

(3) ***The date on which the veterinarian sterilized the dog, if applicable.***

(4) The name and address of the veterinarian who performed the examinations ***,*** ~~[or]~~ reexaminations ***or sterilization*** or administered any treatments or medications.

~~[(h)]~~ ***(i)*** That a copy of the veterinarian's evaluation of the health of the dog performed pursuant to NRS 574.450 is available to the purchaser.

2. The written statement must be signed and dated by the retailer or dealer and contain a space for the purchaser to sign and date the statement as

an attestation that he has read and understands the disclosures contained in the statement.

~~*[3. Any local ordinance that requires the sterilization of dogs may not be enforced with respect to a dog that is used primarily:*~~

~~*(a) For hunting;*~~

~~*(b) For purposes relating to farming or agriculture;*~~

~~*(c) For breeding;*~~

~~*(d) For drawing heavy loads; or*~~

~~*(e) As a service animal or a service animal in training, as those terms are defined in NRS 426.097 and 426.099, respectively.]*~~

Sec. 4. NRS 574.500 is hereby amended to read as follows:

574.500 A retailer, dealer or operator shall not separate a dog or cat from its mother until it is ***8 weeks of age or*** accustomed to taking food or nourishment other than by nursing ~~[.]~~ ***, whichever is later.***

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 15.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 248.

The following Senate amendment was read:

Amendment No. 574.

AN ACT relating to holding companies; revising provisions relating to the approval of certain mergers or acquisitions of control; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill removes the requirement that the Commissioner of Insurance must approve certain mergers or acquisitions of control under certain circumstances and instead authorizes the Commissioner of Insurance to approve those mergers and acquisitions under those circumstances. Section 2 also revises]~~ **Sections 1 and 2 of this bill revise** the circumstances under which the Commissioner ~~[may]~~ **of Insurance shall** approve certain mergers or acquisitions and changes the process used by the Commissioner to approve those mergers or acquisitions. (NRS 692C.210 **, 692C.256**)

Section 2 of this bill revises existing law so that certain circumstances related to competition which would have prevented the Commissioner from stopping an acquisition will only need to be considered by the Commissioner before stopping an acquisition. **Section 2** also moves the burden from the Commissioner to the acquiring person to prove that no violation of competitive standards will exist after the acquisition. (NRS 692C.256)

Section 3 of this bill allows the Commissioner to consider the effect of an acquisition on the ~~[public]~~ interest **of the insurance-buying public** before issuing an order related to that acquisition. (NRS 692C.258)

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

Section 1. NRS 692C.210 is hereby amended to read as follows:

692C.210 1. Except as otherwise provided in subsection 5, the Commissioner shall ~~*[may]*~~ approve any merger or other acquisition of control referred to in NRS 692C.180 unless, after a public hearing thereon, he finds that:

(a) After the change of control, the domestic insurer specified in NRS 692C.180 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in NRS 692C.180 are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer ~~[and]~~ ***or*** not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer ~~[and]~~ ***or*** of the public to permit the merger or other acquisition of control; ~~[or]~~

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance ~~[.]~~ ***; or***

(h) The practices of the applicant ~~*[does not possess the ability to manage]*~~ ***in managing claims*** ~~*[according to applicable standards of market conduct.]*~~ ***have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:***

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. The public hearing specified in subsection 1 must be held within ~~[30]~~ ***60*** days after the statement required by NRS 692C.180 has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within ~~[30]~~ ***60*** days after the conclusion of the hearing. If he determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this State. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of his staff as may be reasonably necessary to assist him in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection 2 of NRS 692C.180 and the date of the proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254; ***and***

(b) ~~[Shall not disapprove the merger or acquisition of control if he finds that any of the circumstances specified in subsection 3 of NRS 692C.256 exist; and~~

~~(c)]~~ May condition his approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this State, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection 2 of NRS 692C.180 is filed with the Commissioner.

Sec. 2. NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this State or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether to issue an order pursuant to subsection 1, the Commissioner shall consider the standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.

3. The Commissioner shall ~~[not issue]~~ ***, before issuing*** an order specified in subsection 1 ~~[.]~~ ***, consider:***

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

4. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection 3 may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

5. The ~~[Commissioner]~~ ***acquiring person*** has the burden of establishing ***that the acquisition will not result in*** a violation of the competitive standard set forth in subsection 1.

Sec. 3. NRS 692C.258 is hereby amended to read as follows:

692C.258 1. Except as otherwise provided in this section, if the Commissioner determines that an acquisition may substantially lessen competition in any line of insurance in this State ~~[or]~~ tends to create a monopoly ~~[,]~~ ***or is not in the*** ~~*[public]*~~ ***interest*** ~~*[,]*~~ ***of members of the public who purchase insurance,*** he may issue an order:

(a) Requiring an involved insurer to cease and desist from doing business in this State relating to that line of insurance; or

(b) Denying the application of an acquired or acquiring insurer for a license or authority to do business in this State.

2. The Commissioner shall not issue an order pursuant to subsection 1 unless:

(a) He conducts a hearing concerning the acquisition in accordance with NRS 679B.310 to 679B.370, inclusive;

(b) A notice of the hearing is issued before the expiration of the waiting period for the acquisition specified in NRS 692C.254, but not less than 15 days before the hearing; and

(c) The hearing is conducted and the order is issued not later than 60 days after the expiration of the waiting period.

3. Each order issued pursuant to subsection 1 must include a written decision of the Commissioner setting forth his findings of fact and conclusions of law relating to the acquisition.

4. An order issued pursuant to this section does not become final until 30 days after it is issued, during which time the involved insurer may submit to the Commissioner a plan to remedy, within a reasonable period, the anticompetitive effect of the acquisition ~~[.]~~ ***or the failure to protect the*** ~~*[public]*~~ ***interest*** ~~*[.]*~~ ***of members of the public who purchase insurance.*** As soon as practicable after receiving the plan, the Commissioner shall, based upon the plan and any information included in the plan, issue a written determination setting forth:

(a) The conditions or actions, if any, required to:

(1) Eliminate the anticompetitive effect of the acquisition ~~[;]~~ ***or protect the*** ~~*[public]*~~ ***interest*** ~~*[;]*~~ ***of members of the public who purchase insurance;*** and

(2) Vacate or modify the order; and

(b) The period in which the conditions or actions specified in paragraph (a) must be performed.

5. An order issued pursuant to subsection 1 does not apply to an acquisition that is not consummated.

6. A person who violates a cease and desist order issued pursuant to this section during any period in which the order is in effect is subject, at the discretion of the Commissioner, to:

(a) The imposition of a civil penalty of not more than $10,000 per day for each day the violation continues;

(b) The suspension or revocation of the person's license or certificate of authority; or

(c) Both the imposition of a civil penalty pursuant to paragraph (a) and the suspension or revocation of the person's license or certificate of authority pursuant to paragraph (b).

7. In addition to any fine imposed pursuant to NRS 692C.480, any insurer or other person who fails to make any filing required by NRS 692C.252 to 692C.258, inclusive, and who fails to make a good faith effort to comply with any such requirement is subject to a fine of not more than $50,000.

8. The provisions of NRS 692C.430, 692C.440 and 692C.460 do not apply to an acquisition to which the provisions of NRS 692C.252 apply.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 248.

Remarks by Assemblyman Conklin.
Motion carried by a constitutional majority.
Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 354 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 103.
Bill read third time.
Remarks by Assemblyman Aizley.
Conflict of interest declared by Assemblyman Bobzien.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that under Rule No. 23, the Assembly waive the requirement for individual disclosure for purposes of a group disclosure.
Motion carried.

Assemblyman Conklin:

For the purposes of Rule No. 23, we would like to disclose that we are public employees who are participating in the Public Employees Benefits Program. Under Rule No. 23, we determine that our interests as a result of that participation does not impede our independence of judgment because our interests are no greater than the interest of any other participant in PEBP. Therefore, the following people will be voting on this bill: Mr. Kihuen, Ms. Dondero Loop, Mr. Bobzien, Mr. Anderson, Mr. Segerblom, Mr. Denis, Mr. Ohrenschall, Ms. Parnell, Mr. Stewart, Mr. Oceguera, Mr. Atkinson, Mr. Carpenter, Mr. Goicoechea, Mr. Settelmeyer, Ms. Koivisto, Mr. Gustavson, Ms. McClain, Mr. Aizley, Mr. Munford, and Mr. Arberry. This is the last time I will have to do either one of these. The disclosure from now on will be very simple.

GENERAL FILE AND THIRD READING

Roll call on Senate Bill No. 103:
YEAS—40.
NAYS—None.
NOT VOTING—Bobzien.
EXCUSED—Grady.
Senate Bill No. 103 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 173.
Bill read third time.
Remarks by Assemblywoman Mastroluca.
Roll call on Senate Bill No. 173:
YEAS—41.
NAYS—None.
EXCUSED—Grady.

Senate Bill No. 173 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 5:49 p.m.

ASSEMBLY IN SESSION

At 7:04 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 295, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 239, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 522, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 25.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 560, 562.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 543, Amendment No. 880, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Senate on this day failed to sustain the Governor's veto of Assembly Bill No. 480.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 311.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 311.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and that the Assembly immediately transmit all bills and resolutions passed for this legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 239.

Bill read second time.

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

Amendment No. 920.

AN ACT relating to state departments; providing for greater coordination of Nevada's economic development and workforce development goals; ~~[requiring the Department of Employment, Training and Rehabilitation to adopt regulations regarding small business investment companies and a small business investment credit;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1.3 of this]~~ **This** bill requires the Governor's Workforce Investment Board to establish industry sector councils to identify job training and education programs to best meet regional economic development goals. ~~[Section 1.3]~~ **This bill** also requires the Board to identify and seek federal funding to provide grants to fund those job training and education programs.

~~[Section 1.7 of this bill requires the Department of Employment, Training and Rehabilitation to adopt regulations for a program for a small business investment credit and a small business investment company.]~~

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 1.3 and 1.7 of this act.~~

~~Sec. 1.3.]~~ **a new section to read as follows:**

1. In appointing members of the Governor's Workforce Investment Board, the Governor shall ensure that the membership as a whole represents:

(a) Industry sectors which are essential to this State and which are driven primarily by demand;

(b) Communities and areas of economic development which are essential to this State; and

(c) The diversity of the workforce of this State, including, without limitation, geographic diversity and the diversity within regions of this State.

2. The Governor's Workforce Investment Board shall:

(a) Identify:

(1) Industry sectors which are essential to this State; and

(2) The region or regions of this State where the majority of the operations of each of those industry sectors is conducted; and

(b) Establish:

(1) Regional goals for economic development for each of the industry sectors identified pursuant to paragraph (a); and

(2) A council for each industry sector.

(c) Consider and develop programs to promote:

(1) Strategies to improve labor markets for industries and regions of this State, including, without limitation, improving the availability of relevant information;

(2) Coordination of the efforts of relevant public and private agencies and organizations;

(3) Strategies for providing funding as needed by various industry sectors;

(4) Increased production capacities for various industry sectors;

(5) The development of useful measurements of performance and outcomes in various industry sectors;

(6) Participation by and assistance from state and local government agencies;

(7) Expanded market penetration, including, without limitation, by providing assistance to employers with small numbers of employees;

(8) Partnerships between labor and management;

(9) Business associations;

(10) The development of improved instructional and educational resources for employers and employees; and

(11) The development of improved economies of scale, as applicable, in industry sectors.

3. Each industry sector council established pursuant to subparagraph (2) of paragraph (b) of subsection 2:

(a) Must be composed of representatives from:

(1) Employers within that industry;

(2) Organized labor within that industry;

(3) Universities and community colleges; and

(4) Any other relevant group of persons deemed to be appropriate by the Board.

(b) Shall, within the parameters set forth in the American Recovery and Reinvestment Act of 2009 or the parameters of any other program for

which the federal funding is available, identify job training and education programs which the industry sector council determines to have the greatest likelihood of meeting the regional goals for economic development established for that industry sector pursuant to subparagraph (1) of paragraph (b) of subsection 2.

4. The Board shall:

(a) Identify and apply for federal funding available for the job training and education programs identified pursuant to paragraph (b) of subsection 3;

(b) Consider and approve or disapprove applications for money;

(c) Provide and administer grants of money to industry sector councils for the purpose of establishing job training and education programs in industry sectors for which regional goals for economic development have been established pursuant to subparagraph (1) of paragraph (b) of subsection 2; and

(d) Adopt regulations establishing:

(1) Guidelines for the submission and review of applications to receive grants of money from the Department; and

(2) Criteria and standards for the eligibility for and use of any grants made pursuant to paragraph (c).

5. As used in this section, "industry sector" means a group of employers closely linked by common products or services, workforce needs, similar technologies, supply chains or other economic links.

Sec. 1.7. ~~***[1. The Department shall adopt regulations creating a program for a small business investment credit and providing the powers and duties of a small business investment company.***~~

~~***2. A person may apply to the Department for a small business investment credit. Such an application must be made on a form prescribed by the Department.***~~

~~***3. A person may apply to the Department for certification as a small business investment company. Such an application must include, without limitation:***~~

~~***(a) A completed application for certification as a small business investment company on a form prescribed by the Department;***~~

~~***(b) A nonrefundable fee of $7,500;***~~

~~***(c) An audited financial statement accompanied by a report of audit containing the unqualified opinion of an independent certified public accountant issued not more than 35 days before the date of the application which states that the applicant has an equity capitalization of $500,000 or more in the form of unencumbered cash, marketable securities or other liquid assets;***~~

~~***(d) Proof acceptable to the Department that the company has at least two persons employed or otherwise engaged to manage the money of the company who each have a minimum of 5 years of experience in money***~~

~~*management in the venture capital or small business investment industry; and*~~

~~*(c) Proof acceptable to the Department that the primary business purpose of the company is to make investments in industry sectors that the Department deems important, including, without limitation, global energy, rural economic development, enterprise zones and minority owned businesses.*~~

~~*4. As used in this section, "industry sector" has the meaning ascribed to it in section 1.3 of this act.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 232.900 is hereby amended to read as follows:

232.900 As used in NRS 232.900 to 232.960, inclusive, ***and*** ~~*[sections 1.3 and 1.7]*~~ ***section 1 of this act,*** unless the context otherwise requires:

1. "Department" means the Department of Employment, Training and Rehabilitation.

2. "Director" means the Director of the Department.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 295.

Bill read second time.

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

Amendment No. 932.

AN ACT relating to dentistry; providing certain exceptions from the list of persons deemed to be practicing dentistry; providing that certain acts are not precluded pursuant to the statutes governing dentistry; **providing for the revocation of the state business license, under certain circumstances, of a person who manages the business of a dental practice, office or clinic;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the acts which constitute the practice of dentistry and a list of related acts which may be performed by persons not licensed by the Board of Dental Examiners of Nevada. (NRS 631.215) **Section 5** of this bill revises that list to provide that a person may provide **certain** goods or services to a dental practice, office or clinic owned or operated by a licensed dentist or certain entities, with certain limitations.

Section 2 of this bill ~~**[**sets forth a list of certain acts which are**]**~~ **provides that a person or entity is** not precluded by the provisions of chapter 631 of NRS ~~**[**, including certain management services and the ownership of certain assets used in**]**~~ **from providing certain goods or services to** a dental practice, office or clinic.

Section 3 of this bill provides that the contracting for, provision of and payment for **certain** goods or services to a dental practice, office or clinic

under certain circumstances do not constitute violations of law or cause for disciplinary action under chapter 631 of NRS.

~~[Section 4 of this bill requires a person who provides management services to a dental practice, office or clinic to register certain information with the Board.]~~

Sections 4.5 and 6 of this bill provide for the revocation of the state business license of a person who manages the business of a dental practice, office or clinic if the person commits certain prohibited acts.

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

Section 1. Chapter 631 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ **to 4.5, inclusive,** of this act.

Sec. 2. ***Nothing in this chapter precludes a person or entity not licensed by the Board from*** ~~*[:*~~

~~*1. Owning or leasing any tangible or intangible assets used in a dental practice, office or clinic. These assets include, without limitation, real property, furnishings, equipment and inventory. These assets do not include patients' dental records as they relate to clinical care.*~~

~~*2. Employing or contracting for the services of personnel other than licensed dentists and hygienists.*~~

~~*3. Managing]*~~ ***providing goods or services for the support of the business of a dental practice, office or clinic*** ~~*[but]*~~ ***if the person or entity does not manage or control the clinical practice of dentistry.***

Sec. 3. ***1. It is not a violation of NRS 631.395, or an act of dishonorable or unprofessional conduct under NRS 631.346 to 631.349, inclusive, for a person described in paragraph (f) of subsection 2 of NRS 631.215 to provide, or receive payment for providing, goods or services in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.***

2. It is not a violation of NRS 631.346 for a dentist or a professional entity organized by a dentist pursuant to the provisions of chapter 89 of NRS to contract with a person described in and operating in accordance with the conditions set forth in paragraph (f) of subsection 2 of NRS 631.215.

Sec. 4. ~~*[A person who manages the business of a dental practice, office or clinic shall register with the Board:*~~

~~*1. The name and business address of the person;*~~

~~*2. The address of the dental practice, office or clinic of the business which the person manages; and*~~

~~*3. The names of the licensed dentist or other entity not prohibited from owning or operating a dental practice, office or clinic whose business the person manages.]*~~ **(Deleted by amendment.)**

Sec. 4.5. 1. If the Board determines that a person who provides goods or services for the support of the business of a dental practice, office

or clinic has committed any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215, the Board may seek revocation of any state business license held by that person by submitting a request for such revocation to the Department of Taxation.

2. Upon receipt of a request for a revocation of a state business license pursuant to subsection 1, the Department of Taxation shall commence proceedings to revoke that license in accordance with the provisions of this section and in the manner provided in subsections 2, 3 and 4 of NRS 360.798 as if the holder of the license had failed to comply with a provision of NRS 360.760 to 360.798, inclusive. In addition to providing notice of a hearing to the holder of the license pursuant to NRS 360.798, the Department of Taxation shall provide notice of the hearing to the Board and allow the Board to show cause why the license should be revoked.

3. The Department of Taxation shall not issue a new license to the former holder of a state business license revoked pursuant to this section unless the Department receives notification from the Board that the Board is satisfied that the person:

(a) Will comply with any regulations of the Board adopted pursuant to the provisions of this chapter; and

(b) Will not commit any act described in subparagraph (1), (2) or (3) of paragraph (f) of subsection 2 of NRS 631.215 or any act prohibited by regulations of the Board adopted pursuant to the provisions of this chapter.

4. As used in this section, "state business license" has the meaning ascribed to it in NRS 360.773.

Sec. 5. NRS 631.215 is hereby amended to read as follows:

631.215 1. Any person shall be deemed to be practicing dentistry who:

(a) Uses words or any letters or title in connection with his name which in any way represents him as engaged in the practice of dentistry, or any branch thereof;

(b) Advertises or permits to be advertised by any medium that he can or will attempt to perform dental operations of any kind;

(c) Diagnoses, professes to diagnose or treats or professes to treat any of the diseases or lesions of the oral cavity, teeth, gingiva or the supporting structures thereof;

(d) Extracts teeth;

(e) Corrects malpositions of the teeth or jaws;

(f) Takes impressions of the teeth, mouth or gums, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(g) Examines a person for, or supplies artificial teeth as substitutes for natural teeth;

(h) Places in the mouth and adjusts or alters artificial teeth;

(i) Does any practice included in the clinical dental curricula of accredited dental colleges or a residency program for those colleges;

(j) Administers or prescribes such remedies, medicinal or otherwise, as are needed in the treatment of dental or oral diseases;

(k) Uses X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes, unless the person is authorized by the regulations of the Board to engage in such activities without being a licensed dentist;

(l) Determines:

(1) Whether a particular treatment is necessary or advisable; or

(2) Which particular treatment is necessary or advisable; or

(m) Dispenses tooth whitening agents or undertakes to whiten or bleach teeth by any means or method, unless the person is:

(1) Dispensing or using a product that may be purchased over the counter for a person's own use; or

(2) Authorized by the regulations of the Board to engage in such activities without being a licensed dentist.

2. Nothing in this section:

(a) Prevents a dental assistant, dental hygienist or qualified technician from making radiograms or X-ray exposures or using X-ray radiation or laser radiation for dental treatment or dental diagnostic purposes upon the direction of a licensed dentist.

(b) Prohibits the performance of mechanical work, on inanimate objects only, by any person employed in or operating a dental laboratory upon the written work authorization of a licensed dentist.

(c) Prevents students from performing dental procedures that are part of the curricula of an accredited dental school or college or an accredited school of dental hygiene or an accredited school of dental assisting.

(d) Prevents a licensed dentist or dental hygienist from another state or country from appearing as a clinician for demonstrating certain methods of technical procedures before a dental society or organization, convention or dental college or an accredited school of dental hygiene or an accredited school of dental assisting.

(e) Prohibits the manufacturing of artificial teeth upon receipt of a written authorization from a licensed dentist if the manufacturing does not require direct contact with the patient.

(f) Prohibits a person from providing goods or services ~~[to]~~ for the support of the business of a dental practice, office or clinic owned or operated by a licensed dentist or any entity not prohibited from owning or operating a dental practice, office or clinic if the person does not:

(1) Provide such goods or services in exchange for payments based on a percentage or share of revenues of the dental practice, office or clinic; ~~[or]~~

(2) Share in the profits or revenue of the dental practice, office or clinic; or

(3) Exercise any authority or control over ~~[:~~

~~(1) The]~~ the clinical practice of dentistry.

3. The Board shall adopt regulations identifying activities that constitute the exercise of authority or control over the clinical practice of dentistry, including, without limitation, activities which:

(a) Exert authority or control over the clinical judgment of a licensed dentist ; or ~~*[relieve]*~~

(b) Relieve a licensed dentist of responsibility for ~~*[oversight of all]*~~ ***the clinical aspects of the dental practice.***

~~*[*~~ ~~*(II) The formation or approval of any contract for the provision of dental services to a patient by a licensed dentist.*~~

~~*(III) The hiring or firing of licensed dentists or hygienists or the material clinical terms of the relationship between a licensed dentist and other licensed dentists or hygienists.*~~

~~*(IV) The referrals by a licensed dentist to another licensed dentist or place any restriction or limitation on referral of patients to a specialist or any other practitioner a licensed dentist determines is necessary.*~~

~~*(V) A licensed dentist's use of any type of procedure on a patient or establishment of a treatment plan for a patient.*~~

~~*(VI) Patient records to the exclusion of the applicable licensed dentist or the applicable patient.*~~

~~*(VII) A licensed dentist's schedule, including time spent with any patient, or place conditions on the number of patients a licensed dentist may see in a period of time.]*~~

Sec. 6. **NRS 360.798 is hereby amended to read as follows:**

360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, the Department may revoke or suspend the state business license of the person.

2. Before ~~[so doing,]~~ ***revoking or suspending the state business license of a person,*** the Department must hold a hearing after 10 days' written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.

~~[2.]~~ ***3.*** If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.

~~[3.]~~ ***4.*** The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.

~~[4.]~~ ***5.*** The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bills Nos. 175, 190, 213, 239, and 295.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 269 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 263 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 239 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Senate Bills Nos. 239 and 295 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 239 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 269.

Bill read third time.

The following amendment was proposed by Assemblymen Anderson and Conklin:

Amendment No. 905.

AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain

circumstances; revising provisions governing osteopathic medicine ~~[;]~~ **and psychologists;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. **Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85** of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. **Section 14** of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. **Section 17** of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) **Section 18** of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) **Section 22** of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) **Section 25** of this bill authorizes the Executive Director of the Board to ~~[issue]~~ **sign** subpoenas ~~[when conducting]~~ **issued in connection with hearings and** investigations ~~[for]~~ **conducted by** the Board. (NRS 630.140) **Sections 26-28, 30-32 and 35** of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) **Sections 36-38** of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) **Section 40** of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education

Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) **Sections 41-45, 47-49, 53, 54, 57 and 58** of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. **Section 67** adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is violating the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. **Section 68** also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. **Sections 69-78** make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

Section 78.1 of this bill defines "national examination" to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners.

Section 78.3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a complete set of fingerprints and written permission authorizing the Board of Psychological Examiners to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints.

Existing law provides that the Board of Psychological Examiners may require an applicant for a license to pass an oral examination in whatever applied or theoretical fields it deems appropriate, in addition to a written examination. Section 78.4 of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the right of the applicant to request that the Board review his examination if he fails the examination.

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

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by ***a*** specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, ***perfusionist,*** doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; **[**and**]**

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any ~~[.]~~ ***; and***

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. ***1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to***

ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. ***"Perfusionist" means a person who is licensed to practice perfusion by the Board.***

Sec. 6. ***"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.***

Sec. 7. ***The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:***

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. ***To be eligible for licensing by the Board as a perfusionist, an applicant must:***

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied

Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. ***1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.***

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. ***The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:***

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. ***1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.***

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. ***1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:***

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. ***1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:***

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. ***If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.***

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine ***, perfusion*** and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, ***and sections 4, 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ ***, including, but not limited to, the performance of an autopsy.***

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege**.** ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or ***perfusionist or*** practitioner of respiratory care of the Armed Services or a medical officer or ***perfusionist or*** practitioner of

respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A]~~ person who is employed by a physician and provides respiratory care ***or services as a perfusionist*** under the supervision of that physician;

~~[(j)]~~ ***(i)*** The maintenance of medical equipment for ***perfusion or*** respiratory care that is not attached to a patient; and

~~[(k)]~~ ***(j)*** A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ ***January*** 1 and terminating on ~~[June 30.]~~ ***December 31.***

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ ***3*** and ~~[3]~~ ***4*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of ***perfusion or*** respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer ~~*[, Executive Director]*~~ or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays **,** ~~**[**and**]**~~ medical records and other papers ~~**[**.**]**~~ ***and tangible items.*** The Secretary-Treasurer, President or other officer of the Board acting on its behalf ***or the Executive Director*** must sign the subpoena.

2. If any person fails to comply with the subpoena **,** ~~**[**within 10 days after its issuance,**]**~~ the Secretary-Treasurer **,** ***Executive Director*** or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If

the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ ***(b)*** The applicant:

~~[(a)]~~ ***(1)*** Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ ***(2)*** Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ ***(3)*** Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ ***(4)*** Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ ***(c)*** Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine ***, to practice as a physician assistant or to practice respiratory care*** shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ***Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.***

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice respiratory care shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. ***The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.***

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice, whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board ***may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.***

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 ***1.*** In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ ***(a)*** The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ ***(b)*** The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ ***the Commission.***

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that

granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ ***after*** the date of the rejection of his application by the Board. Upon appeal **,** the applicant has the burden to show that the action of the Board is erroneous **.**~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ ***:***

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care ***; or***

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ ***:***

(1) To persons in this State who are indigent, uninsured or unable to afford health care; ***or***

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics **. [**~~if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.~~**]**

2. ***For the purpose of paragraph (e) of subsection 1, the physician must:***

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ ***an authorized facility*** license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ ***the*** notification, the ~~[restricted]~~ ***authorized facility*** license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license $400
For renewal of a limited ~~[, restricted]~~ or special license 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a ***perfusionist or*** practitioner of respiratory care 400

For biennial renewal of a license as a perfusionist ***600***
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status 400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[~~National Board~~]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ ***or*** is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate,

including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ ***or which are beyond the scope of his training.***

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ ***within 30 days after the date the licensee knows or has reason to know of the violation.***

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.***

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ ***the*** privileges ***of a physician, physician assistant or practitioner of respiratory care*** to practice ~~[medicine]~~ while the physician ***, physician assistant or practitioner of respiratory care*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician ***,***

physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician ***, physician assistant or practitioner of respiratory care*** within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine ***, perfusion*** or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care

to practice while the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a ***perfusionist,*** physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an

investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ ***not a physician.*** The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ ***or an investigative committee of the Board.***

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 ***1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably***

determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician ***, physician assistant or practitioner of respiratory care*** pending proceedings for disciplinary action and requires the physician ***, physician assistant or practitioner of respiratory care*** to submit to a mental or physical examination or an examination testing his competence to practice ***,*** ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care

pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine ***, perfusion*** or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine ***, perfusion*** or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ ***by filing a formal complaint.***

The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ ***5. A formal hearing must be held at the time and date set at the early case conference by:***

(a) The Board ~~[, a]~~ ***;***

(b) A hearing officer ~~[or a]~~ ***;***

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members ***of the Board*** designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ ***an investigative committee of the Board or the Board;***

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ ***panel must*** not ***be*** a physician ***.*** ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[physician]~~ ***licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against a ~~[physician]~~ ***licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. ***Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.***

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine ***, perfusion*** or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[except for an advisory]~~ ***other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any*** member serving on a panel of the Board ***at the*** hearing ~~[charges,]~~ ***of the matter,*** may participate in ***an adjudication to obtain*** the final order of the Board. ~~[If the Board, after a formal hearing, determines from a preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.]~~ ***At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:***

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ ***The Board may limit the time within which the parties and the complainant may make their arguments and statements.***

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If ***, in the findings of fact and conclusions of law, the Board, hearing officer or panel of*** the Board determines that no violation has occurred, ~~[it]~~ ***the Board*** shall dismiss the charges, in writing, and notify the ~~[physician]~~ ***respondent*** that the charges have been dismissed. ~~[If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.]~~ ***4.*** Except as otherwise provided in subsection ~~[4,]~~ ***5,*** if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a ***written*** public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license ***;*** ~~[to practice medicine, but only in accordance with the provisions of NRS 630.348;]~~

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 ~~[;]~~ ***for each violation;***

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ ***5.*** If the Board finds that the ~~[physician]~~ ***respondent*** has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ ***6.*** The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ ***7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ ***4*** or ~~[4]~~ ***5*** of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine ***, perfusion*** or respiratory care has been limited; or

(b) Whose license to practice medicine ***, perfusion*** or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine ***, perfusion*** or respiratory care by physicians ***, perfusionists*** or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a

person who is the holder of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine ***, perfusion*** or respiratory care;

(c) To limit the practice of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ ***; or***

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine ***, perfusion or respiratory care*** without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine ***, perfusion*** or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine ***, perfusion*** or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine ***, perfusion*** or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by ***a*** specific statute, practices medicine ***, perfusion*** or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, ***perfusion,*** respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

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

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. ***1. If the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.***

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation

agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. ***In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.***

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ ***, other than the use of silicone oil to repair a retinal detachment.***

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine ***or perfusion*** pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ ***:***

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ ***; and***

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ ***may*** be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine **.** ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[~~Gross or repeated~~]~~ ***Malpractice or gross*** malpractice, which may be evidenced by ~~[~~claims~~]~~ ***a claim*** of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. ***If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.***

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ ***a licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ ***a licensee*** if the report from the Federal

Bureau of Investigation indicates that the ~~[osteopathic physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ ***any*** other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, ***an employee or volunteer of a diversion program specified in NRS 633.561,*** or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, ~~[repeated]~~ malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted without malicious intent.

Sec. 78.1. **Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:**

"National examination" means the Examination for Professional Practice in Psychology in the form administered by the Association of State

and Provincial Psychology Boards and approved for use in this State by the Board.

Sec. 78.2. **NRS 641.020 is hereby amended to read as follows:**

641.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641.021 to 641.027, inclusive, ***and section 78.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 78.3. **NRS 641.160 is hereby amended to read as follows:**

641.160 ***1.*** Each person desiring a license must ~~[make]~~ ***:***

(a) Make application to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and include all information required to complete the application.

(b) As part of his application and at his own expense:

(1) Arrange to have a complete set of his fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Board; and

(2) Submit to the Board:

(I) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background; or

(II) Written verification, on a form prescribed by the Board, stating that the set of fingerprints of the applicant was taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant provided written permission authorizing the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background, and to such other law enforcement agencies as the Board deems necessary for a report on the applicant's background.

2. The Board may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Board deems necessary; and

(b) Request from each agency to which the Board submits the fingerprints any information regarding the applicant's background as the Board deems necessary.

3. An application is not considered complete and received for purposes of evaluation pursuant to subsection 2 of NRS 641.170 until the Board

receives a complete set of fingerprints or verification that the fingerprints have been forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History, and written authorization from the applicant pursuant to this section.

Sec. 78.4. **NRS 641.180 is hereby amended to read as follows:**

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license must pass the ~~[Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board.]~~ ***national examination.*** In addition to ~~[this written]~~ ***the national*** examination, the Board may require an ~~[oral]~~ examination in whatever applied or theoretical fields it deems appropriate.

2. ~~[The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.~~

~~3.]~~ The Board shall notify each applicant of the results of his ~~[written]~~ ***national*** examination and ~~[supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.~~

~~4. If an applicant fails the examination, he may request in writing that the Board review his examination.~~

~~5.]~~ ***any other examination required pursuant to subsection 1.***

3. The Board may waive the requirement of ~~[a written]~~ ***the national*** examination for a person who:

(a) Is licensed in another state;

(b) Has ***at least*** 10 ~~[years]~~ ***years'*** experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 78.5. **NRS 641.370 is hereby amended to read as follows:**

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the ~~[written]~~ ***national*** examination, in addition to the actual cost to the Board of the examination $100

For ~~[the special oral]~~ ***any other*** examination ~~[,]~~ ***required pursuant to the provisions of subsection 1 of NRS 641.180,*** in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license 25

For the biennial renewal of a license 500

For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license 100

For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology 300

For the registration of a nonresident to practice as a consultant 100

2. An applicant who passes the ***national*** examination and ***any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who*** is eligible for a license shall pay the biennial fee for the renewal of a license **,** which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ***perfusionist, a*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) ”Assault” means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) ”Officer” means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) ”Provider of health care” means a physician, a ***perfusionist or a*** physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor’s assistant, a doctor of Oriental

medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state

prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

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

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

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

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

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

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon

notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

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

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for

protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

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

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

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

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

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

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

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

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

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

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

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

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

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

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

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

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

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

(g) Any person licensed to conduct a foster home.

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

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

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

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, **78.1 to 78.5, inclusive,** 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, 54.5, 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[:~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.~~**]** ***and unrestricted; and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 175.

Bill read third time.

The following amendment was proposed by Assemblywoman Leslie:

Amendment No. 921.

SUMMARY—Enacts provisions governing flood management projects ~~[.]~~ **and other related activities.** (BDR 20-239)

AN ACT relating to ~~[floods;]~~ **water;** authorizing a board of county commissioners to acquire, improve, equip, operate and maintain a flood management project in certain counties; authorizing any revenues derived from such a flood management project to be pledged for the payment of certain bonds; authorizing the governing body of a municipality in certain counties to acquire, improve, equip, operate and maintain a flood management project under certain circumstances; **requiring the comprehensive regional plan in certain counties to include provisions concerning the sustainability of certain water resources;** revising provisions governing the acquisition of bonds issued by a flood management authority; **expanding the duties of the Legislative Committee to Oversee the Western Regional Water Commission;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners to acquire and maintain within the county various projects, including building projects, drainage and flood control projects, lending projects, off-street parking projects, overpass projects, park projects, sewerage projects, street projects and water projects. In connection with those projects, a board of county commissioners may issue general obligation bonds to support and defray the cost of the project and take certain other related actions concerning the project. (NRS 244A.011-244A.065) Existing law confers similar authority upon the governing body of a municipality. (NRS 268.672-268.740) **Sections 3-15** of this bill expand the authority of a board of county commissioners in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) by authorizing the board to acquire and maintain a flood management project in the same manner as any other project authorized under existing law. **Sections 16-22** of this bill provide similar provisions for a governing body of a municipality within such a county. **Sections 24-27** of this bill revise the provisions of existing law governing the making of loans and the issuance of state securities by this State to assist municipalities in the construction of public improvements by including within those provisions a flood management authority.

Existing law requires the regional planning commission of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to develop a comprehensive regional plan for the physical development and orderly growth of the region. (NRS 278.0272) The comprehensive regional plan must include goals, policies, maps and other documents relating to population, conservation, limitation of premature expansion, land use, transportation, public facilities and services, annexation, intergovernmental coordination and certain utility projects. (NRS 278.0274) Existing law also provides for the development by the Northern Nevada Water Planning Commission of a comprehensive plan concerning supplies of water within the planning area for the comprehensive plan and for the adoption of such a plan by

the Western Regional Water Commission. (NRS 540A.010; Chapter 531, Statutes of Nevada 2007, pp. 3285-3304) Section 23.5 of this bill requires the comprehensive regional plan to include several provisions concerning the availability of water resources for growth and development, including a statement setting forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission.

Existing law creates the Legislative Committee to Oversee the Western Regional Water Commission and requires the Committee to review the programs and activities of the Western Regional Water Commission. (Chapter 531, Statutes of Nevada 2007, p. 3302) Section 27.5 of this bill requires the Committee to include in its review of the programs and activities of the Commission an analysis of the potential acquisition, control and management by the Commission of a flood management project that is located within the planning area of the Commission.

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

Section 1. The Legislature hereby declares that flood management projects provide a benefit to residents and owners of property by:

1. Preventing the loss of life and property;

2. Preventing the disruption of essential services for the safety of the public and the disruption of commerce, transportation, communication and essential services which have adverse economic impacts;

3. Preventing the waste of water resulting from floods;

4. Providing for the conservation, development, use and disposal of water and improved quality of water;

5. Providing for ecosystem restoration and enhanced recreational facilities; and

6. Providing for the safeguarding of the public health.

Sec. 2. Chapter 244A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.***

Sec. 4. ***"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:***

1. A drainage and flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A park project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

↪ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, ~~[~~shall~~]~~ ***and sections 3 and 4 of this act may*** be ~~[~~known~~]~~ ***cited*** as the County Bond Law.

Sec. 6. NRS 244A.013 is hereby amended to read as follows:

244A.013 Except where the context otherwise requires, the definitions in NRS 244A.015 to 244A.056, inclusive, ***and sections 3 and 4 of this act*** govern the construction hereof.

Sec. 7. NRS 244A.025 is hereby amended to read as follows:

244A.025 "County" means any county in ~~[~~the~~]~~ ***this*** State. For the purposes of NRS 244A.011 to 244A.065, inclusive, ***and sections 3 and 4 of this act,*** Carson City is considered as a county.

Sec. 8. NRS 244A.027 is hereby amended to read as follows:

244A.027 "Drainage and flood control project" means any natural and artificial water facilities for the collection, transportation, impoundment and disposal of rainfall, storm, flood or surface drainage waters, including, without limitation, ditches, lakes, reservoirs, revetments, levees, dikes, walls,

embankments, bridges, sewers, culverts, inlets, connections, laterals, collection lines, outfalls, outfall sewers, trunk sewers, intercepting sewers, transmission lines, conduits, syphons, sluices, flumes, canals, ditches, natural and artificial watercourses, ponds, dams, retarding basins, and other water diversion and storage facilities, pumping stations, stream gauges, rain gauges, meters, flood warning service and appurtenant telephone, telegraph, radio and television service, engines, valves, pumps, apparatus, fixtures, structures and buildings, or any combination thereof, and all appurtenances and incidentals necessary, useful or desirable for any such facilities, including, without limitation, all types of property therefor. ***The term includes a flood management project.***

Sec. 9. NRS 244A.034 is hereby amended to read as follows:

244A.034 "Infrastructure project" means:

1. A capital improvement for fire protection, a library, a building, a park or police protection that a municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law; or

2. For a water authority, wastewater authority ***, flood management authority*** or any municipality whose governing body is composed of only the members of the board, a capital improvement for ~~[(a)]~~ ***:***

(a) A water system ~~[,]~~ ***;***

(b) A water reclamation system ***;***

(c) A flood management project; or

(d) A sanitary sewer ***,***

↳ that the municipality is authorized to improve, acquire or equip pursuant to a law other than the County Bond Law.

Sec. 10. NRS 244A.0345 is hereby amended to read as follows:

244A.0345 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds issued by a municipality pursuant to a law other than the County Bond Law which are:

1. General obligations payable from ad valorem taxes that are approved by the voters of the municipality issued for a capital improvement of a library or park;

2. General obligations payable from ad valorem taxes that are approved by the voters of the municipality or are approved pursuant to subsection 3 of NRS 350.020 issued for a capital improvement of an infrastructure project other than a library or park;

3. Revenue obligations of a water authority that are payable from revenues of:

(a) The water system of the water authority;

(b) One or more of the municipalities that are members of the water authority; or

(c) Any combination of the entities described in paragraphs (a) and (b); ~~[or]~~

4. Revenue obligations of a wastewater authority that are payable from revenues of:

(a) The water reclamation system of the wastewater authority;

(b) One or more of the municipalities that are members of the wastewater authority; or

(c) Any combination of the entities described in paragraphs (a) and (b) ~~[.]~~ ***; or***

5. Revenue obligations of a flood management authority that are payable from the revenues of:

(a) A flood management project of the flood management authority;

(b) One or more of the municipalities that are members of the flood management authority; or

(c) Any combination of the entities described in paragraphs (a) and (b).

Sec. 11. NRS 244A.0347 is hereby amended to read as follows:

244A.0347 "Municipality" means any city, town, school district, library district, consolidated library district, fire protection district, district for a fire department, park district, general improvement district organized pursuant to chapter 318 of NRS, wastewater authority, ***flood management authority,*** water district organized pursuant to a special act or water authority organized as a political subdivision created by cooperative agreement.

Sec. 12. NRS 244A.057 is hereby amended to read as follows:

244A.057 Any board, upon behalf of the county and in its name, may acquire, improve, equip, operate and maintain, within the county:

1. A building project;
2. A drainage and flood control project;
3. A ***flood management project;***

4. ***A*** lending project if the county has adopted an ordinance pursuant to subsection 3 of NRS 244A.064;

~~[4.]~~ ***5.*** An off-street parking project;

~~[5.]~~ ***6.*** An overpass project;

~~[6.]~~ ***7.*** A park project;

~~[7.]~~ ***8.*** A sewerage project;

~~[8.]~~ ***9.*** A street project;

~~[9.]~~ ***10.*** An underpass project; and

~~[10.]~~ ***11.*** A water project.

Sec. 13. NRS 244A.061 is hereby amended to read as follows:

244A.061 The payment of any bonds issued hereunder may be additionally secured by a pledge of all or part of any revenues derived from ~~[the]~~ ***:***

1. ***The*** operation of any project herein authorized and from any other income-producing project of the county ~~[and derived from any]~~ ***;***

2. A flood management project; or

3. ***Any*** license or other excise taxes levied for revenue and available for such a pledge ***,*** ~~[(]~~

➥ or any combination thereof ***.*** ~~[).]~~

Sec. 14. NRS 244A.063 is hereby amended to read as follows:

244A.063 In order to ~~[insure]~~ ***acquire, improve, equip, operate and maintain a project specified in NRS 244A.057 and to ensure*** the payment, wholly or in part, of the general obligation bonds or revenue bonds of the county the payment of which bonds is additionally secured by a pledge of the revenues derived from any such income-producing project ~~[and from any such]~~ ***, flood management project or*** excise taxes, ***or any combination thereof,*** the board may establish and maintain, and the board may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or both services and facilities, rendered by or through the ***income-producing project or flood management*** project, within the corporate limits of the county, and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the board authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 15. NRS 244A.065 is hereby amended to read as follows:

244A.065 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 244A.011 to 244A.065, inclusive, ~~[shall be]~~ ***and sections 3 and 4 of this act are*** in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act do*** not affect the powers conferred by, any other law.

3. No part of NRS 244A.011 to 244A.065, inclusive, ~~[shall repeal or affect]~~ ***and sections 3 and 4 of this act repeals or affects*** any other law or part thereof, it being intended that NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act must*** provide a separate method of accomplishing its objectives, and not an exclusive one ***,*** ~~[;]~~ and NRS 244A.011 to 244A.065, inclusive, ~~[shall]~~ ***and sections 3 and 4 of this act must*** not be construed as repealing, amending or changing any such other law.

Sec. 16. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management project" or any phrase of similar import, means a project or improvement that is located within or without a city in a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the city or any flood or storm waters of a stream of which the source is located outside of the city. The term includes, without limitation:

1. A drainage project or flood control project;

2. A project to construct, repair or restore an ecosystem;

3. A project to mitigate any adverse effect of flooding or flood management activity or improvement;

4. A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

5. A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

6. A recreational project that is related to a flood management project;

7. Any landscaping or similar amenity that is constructed:

(a) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(b) To mitigate any adverse effect on the environment relating to a flood management project;

8. A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

9. A project to protect and manage a floodplain;

10. A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

11. The acquisition of any real property or interest in real property to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management,

↪ or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 17. NRS 268.672 is hereby amended to read as follows:

268.672 NRS 268.672 to 268.740, inclusive, ***and section 16 of this act*** may be cited as the City Bond Law.

Sec. 18. NRS 268.674 is hereby amended to read as follows:

268.674 Except as otherwise provided in NRS 268.672 to 268.740, inclusive, ***and section 16 of this act, the*** terms used or referred to herein are as defined in the Local Government Securities Law ***,*** ~~[;]~~ but the definitions in NRS 268.676 to 268.728, inclusive, ***and section 16 of this act,*** except where the context otherwise requires, govern the construction hereof.

Sec. 19. NRS 268.682 is hereby amended to read as follows:

268.682 ”Drainage project” or “flood control project,” or any phrase of similar import, means any natural and artificial water facilities for the collection, channeling, impoundment and disposal of rainfall, other surface and subsurface drainage waters, and storm and floodwaters, including ***,*** without limitation ditches, ponds, dams, spillways, retarding basins, detention basins, lakes, reservoirs, canals, channels, levees, revetments,

dikes, walls, embankments, bridges, inlets, outlets, connections, laterals, other collection lines, intercepting sewers, outfalls, outfall sewers, trunk sewers, force mains, submains, water lines, sluices, flumes, syphons, sewer lines, pipes, conduits, culverts, other transmission lines, pumping stations, gauging stations, ventilating facilities, stream gauges, rain gauges, engines, valves, pumps, meters, junction boxes, manholes, other inlet and outlet structures, bucket machines, inlet and outlet cleaners, backhoes, draglines, graders, other equipment, apparatus, fixtures, structures and buildings, flood warning service and appurtenant telephone, telegraph, radio and television apparatus and other water diversion, drainage and flood control facilities **,** ~~[(]~~ or any combination thereof **.** ~~[).]~~ ***The term includes a flood management project.***

Sec. 20. NRS 268.730 is hereby amended to read as follows:

268.730 Except as otherwise provided in NRS 268.086 and 268.088, any governing body of a municipality, upon its behalf and in its name, may at any time or from time to time acquire, improve, equip, operate and maintain, within or without or both within and without the municipality:

1. A building project;
2. A cemetery project;
3. A communications project;
4. A drainage project or flood control project;
5. An electric project;
6. A fire protection project;
7. ***A flood management project;***
8. An off-street parking project;

~~[8.]~~ ***9.*** An overpass project;
~~[9.]~~ ***10.*** A park project;
~~[10.]~~ ***11.*** A recreational project;
~~[11.]~~ ***12.*** A refuse project;
~~[12.]~~ ***13.*** A sewerage project;
~~[13.]~~ ***14.*** A sidewalk project;
~~[14.]~~ ***15.*** A street project;
~~[15.]~~ ***16.*** A transportation project;
~~[16.]~~ ***17.*** An underpass project; and
~~[17.]~~ ***18.*** A water project.

Sec. 21. NRS 268.738 is hereby amended to read as follows:

268.738 In order to ~~[insure]~~ ***acquire, improve, equip, operate and maintain a project specified in NRS 268.730 and to ensure*** the payment, wholly or in part, of the general obligation securities ***or revenue securities*** of the municipality the payment of which bonds is additionally secured by a pledge of the revenues derived from any such income-producing project ~~[and from any such]~~ ***, flood management project or*** excise taxes, ***or any combination thereof,*** the governing body of the municipality may establish and maintain, and the governing body may from time to time revise, a schedule or schedules of fees, rates and charges for services or facilities, or

both services and facilities, rendered by or through the ***income-producing project or flood management*** project and a schedule or schedules of license or other excise taxes, in an amount sufficient for that purpose and also sufficient to discharge any covenant in the proceedings of the governing body authorizing the issuance of any of such bonds, including any covenant for the establishment of reasonable reserve funds.

Sec. 22. NRS 268.740 is hereby amended to read as follows:

268.740 1. No other act or law with regard to the authorization or issuance of bonds that requires an approval, or in any way impedes or restricts the carrying out of the acts herein authorized to be done, shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto, except as herein otherwise provided.

2. The powers conferred by NRS 268.672 to 268.740, inclusive, ~~[shall be]~~ ***and section 16 of this act are*** in addition and supplemental to, and not in substitution for, and the limitations imposed by NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act do*** not affect the powers conferred by, any other law.

3. No part of NRS 268.672 to 268.740, inclusive, ~~[shall repeal or affect]~~ ***and section 16 of this act repeals or affects*** any other law or part thereof, it being intended that NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act must*** provide a separate method of accomplishing its objectives, and not an exclusive one ***,*** ~~[;]~~ and NRS 268.672 to 268.740, inclusive, ~~[shall]~~ ***and section 16 of this act must*** not be construed as repealing, amending or changing any such other law.

Sec. 23. NRS 271A.050 is hereby amended to read as follows:

271A.050 "Project" means:

1. With respect to a county whose population is 400,000 or more:

(a) An art project, as defined in NRS 271.037;

(b) A tourism and entertainment project, as defined in NRS 271.234; or

(c) A sports stadium which can be used for the home games of a Major League Baseball or National Football League team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a Major League Baseball or National Football League stadium, including, without limitation, all types of property therefor and immediately adjacent facilities for retail sales, dining and entertainment.

2. With respect to a city in a county whose population is 400,000 or more:

(a) A project described in paragraph (a), (b) or (c) of subsection 1; or

(b) A recreational project, as defined in NRS 268.710.

3. With respect to a municipality other than a municipality described in subsection 1 or 2, any project that the municipality is authorized to acquire, improve, equip, operate and maintain pursuant to subsections 1, 2 ***, 3*** and ~~[4]~~ ***5*** to 10, inclusive, of NRS 244A.057 or NRS 268.730 or 271.265, as applicable.

4. Any real or personal property suitable for retail, tourism or entertainment purposes.

5. Any real or personal property necessary, useful or desirable in connection with any of the projects set forth in this section.

6. Any combination of the projects set forth in this section.

Sec. 23.5. **NRS 278.0274 is hereby amended to read as follows:**

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population. ***This portion of the plan must set forth the total population of the region that may be supported by the sustainable water resources identified in the comprehensive plan adopted by the Western Regional Water Commission pursuant to section 34 of chapter 531, Statutes of Nevada 2007, at page 3293, if applicable to the region. The provisions of this subsection do not limit or otherwise affect any authority or duty of the State Engineer.***

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) ***Set forth a pattern of development consistent with the total population of the region that may be supported by the sustainable water resources described in subsection 1;***

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; ~~*[land*~~

~~*(d)]*~~ ***(e)*** Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to

the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area ~~[.]~~ ***; and***

(f) Set forth policies that require each applicable master plan of a local government to be consistent with the pattern of development and total population specified in paragraph (c).

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 24. Chapter 350A of NRS is hereby amended by adding thereto a new section to read as follows:

"Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

Sec. 25. NRS 350A.020 is hereby amended to read as follows:

350A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 350A.025 to 350A.125, inclusive, ***and section 24 of this act*** have the meanings ascribed to them in those sections.

Sec. 26. NRS 350A.070 is hereby amended to read as follows:

350A.070 "Municipal securities" means notes, warrants, interim debentures, bonds and temporary bonds validly issued as obligations for a purpose related to natural resources which are payable:

1. From taxes whether or not additionally secured by any municipal revenues available therefor;

2. For bonds issued by an irrigation district, from assessments against real property;

3. For bonds issued by a water authority organized as a political subdivision created by cooperative agreement, from revenues of the water system of the water authority or one or more of the water purveyors who are members of the water authority or any combination thereof; ~~[or]~~

4. For bonds issued by a wastewater authority, from revenues of the water reclamation system of the wastewater authority or one or more of the municipalities that are members of the wastewater authority, or any combination thereof ~~[.]~~ ***; or***

5. For bonds issued by a flood management authority, from revenues of the flood management authority or one or more of the municipalities that are members of the flood management authority, or any combination thereof.

Sec. 27. NRS 350A.080 is hereby amended to read as follows:

350A.080 "Municipality" means any county, city, town, wastewater authority, ***flood management authority,*** water authority organized as a political subdivision created by cooperative agreement, school district, general improvement district or other district, including an irrigation district.

Sec. 27.5. **Section 56 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3302, is hereby amended to read as follows:**

Sec. 56. 1. There is hereby created the Legislative Committee to Oversee the Western Regional Water Commission created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Western Regional Water Commission. The review must include an analysis of ~~[~~potential~~]~~ **:**

(a) Potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this act **~~[.]~~** ***; and***

(b) Potential acquisition, control and management by the Commission of a flood management project that is located entirely or partially within the planning area. As used in this paragraph, "flood management project" has the meaning ascribed to it in section 4 of this act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Western Regional Water Commission.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of

this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 28. **1.** This **section and sections 1 to 23, inclusive, and 24 to 27.5, inclusive, of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Section 23.5 of this act becomes effective upon passage and approval only if section 2 of Assembly Bill No. 119 of this session has not become effective on or before that date.

3. Section 27.5 of this act expires by limitation on July 1, 2013.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 190.

Bill read third time.

The following amendment was proposed by Assemblywoman Gansert:

Amendment No. 916.

AN ACT relating to counties; removing the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill removes the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in certain transactions relating to real property. The county fair and recreation board still must obtain prior approval of the board of county commissioners before **: (1) conducting any transaction that may result in or affect any debt or bonds for which the county is responsible; or (2)** selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 244A.627 is hereby amended to read as follows:

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[~~acquire,~~]~~ **:**

1. Acquire, purchase, lease, sell ~~[,]~~ or dispose of ~~*[sell or lease to a person or governmental entity]*~~ any real property or engage in any other transaction relating to real property ***if the transaction may result in any debt or bonds for which the county may be responsible, in whole or in part, or affects any existing debt or bonds for which the county is responsible, in whole or in part; or***

2. Sell or lease to a person or governmental entity any real property within the county which is located in a city whose population is less than 150,000 **,**

➥ without prior approval of the board of county commissioners.

Sec. 2. (Deleted by amendment.)

Assemblywoman Gansert moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 213.

Bill read third time.

The following amendment was proposed by Assemblymen Kirkpatrick, Atkinson, and Leslie:

Amendment No. 890.

AN ACT relating to the City of Sparks; amending the Charter of the City of Sparks to revise the process for appointing various positions in city government; revising the selection process for Mayor pro tempore; **requiring that the candidates for Councilman in the City be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;** revising the list of classes of persons protected from employment discrimination by the City; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill revises the Charter of the City of Sparks to permit the City Manager to appoint the heads of departments and various executive, administrative and professional employees without confirmation by the City Council. **Sections 4 and 7** of this bill revise the Charter to make consistent the classes of persons protected from employment discrimination.

Under the existing Charter, the City Council elects the Mayor pro tempore from its members. (Sparks City Charter § 3.010) **Section 5** of this bill amends the Charter to authorize the Mayor to nominate a member of the City Council to be Mayor pro tempore, subject to the approval of the majority of the City Council. **Sections 1 and 5** also clarify that if the office of Mayor is vacant, the Mayor pro tempore shall act as Mayor until the next general election.

The existing Charter also provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Sparks City Charter, §§ 5.010, 5.020) Sections 6.3 and 6.7 of this bill amend the Charter to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

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

Section 1. Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 395, is hereby amended to read as follows:

Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council ~~[,]~~ or in the office of City Attorney or Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment made by the Mayor within 30 days after the vacancy occurs, the City Council shall present to the Mayor the names of two qualified persons to fill the vacancy. The Mayor shall, within 15 days after the presentation, select one of the two qualified persons to fill the vacancy. The appointee must have the same qualifications required of the elected official.

2. A vacancy in the office of the Mayor must be filled by the Mayor pro tempore. The resulting vacancy in the City Council must be filled as provided in subsection 1.

3. The appointee or Mayor pro tempore, in ***the*** case of a vacancy in the office of Mayor, shall serve until his successor is elected and qualified at the next ***general*** election to serve the remainder of the unexpired term.

Sec. 2. Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 129, Statutes of Nevada 1993, at page 229, is hereby amended to read as follows:

Sec. 1.080 Appointive positions.

1. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.

2. ~~[Subject to confirmation by the City Council,]~~ ***Except as otherwise provided in this Charter,*** the City Manager shall appoint ~~[:~~

~~(a) The~~] ***the*** heads of ~~[the Fire and Police departments and one technical assistant in each of those departments. A technical assistant may not supervise any other employees.~~

~~(b) Any~~] ***each department.***

3. Except as otherwise provided in this Charter, the City Manager or his designee may appoint any employee employed in a bona fide executive, administrative or professional capacity. As used in this ~~[paragraph:~~

~~(1)~~] ***subsection:***

(a) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.1, as that section existed on October 1, 1993.~~

~~(2)~~] ***541.100.***

(b) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.2, as that section existed on October 1, 1993.~~

~~(3)~~] ***541.200.***

(c) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § ~~[541.3, as that section existed on October 1, 1993.~~

~~3.~~] ***541.300.***

4. The City ~~[Council]~~ ***Manager*** shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 3. Section 1.100 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 450, Statutes of Nevada 1985, at page 1310, is hereby amended to read as follows:

Sec. 1.100 Mayor and Councilmen not to hold other office.

1. The Mayor and a member of the Council may not:

(a) Hold any other elective office with the State of Nevada, Washoe County, the City of Sparks or any other city, except as provided by law.

(b) ~~[Be]~~ ***Except as otherwise provided in subsection 3 of section 3.010, be*** appointed to any position created by **,** or the compensation for which was increased or fixed by **,** the City Council until 1 year after the expiration of the term for which such person was elected.

2. Any person holding any office proscribed by subsection 1 automatically forfeits his office as Mayor or member of the Council.

Sec. 4. Section 1.130 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 457, Statutes of Nevada 1979, at page 852, is hereby amended to read as follows:

Sec. 1.130 Certain activities prohibited.

1. A person shall not be appointed to or removed from, or in any way favored or discriminated against with respect to **,** any City position or appointive City administrative office because of race, sex, ~~[religious creed,]~~

sexual orientation, religion, color, ***age, disability, marital status or*** national origin, ~~[ancestry or political affiliations.]~~ ***or because of political or personal reasons or affiliations, except when based upon a bona fide occupational qualification.***

2. A person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall not directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

3. A person shall not orally, in writing or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any elected officer of the City or candidate for any City office from any person holding any compensated appointive City position.

4. A person who holds any compensated appointive City position shall not make, solicit or receive any contribution of campaign funds for any elected officer of the City or candidate for any City office or take any part in the management, affairs or political campaign of the candidate.

5. Any person who by himself or with others willfully violates any of the provisions of subsections 1 ~~[to 3, inclusive,]~~ ***, 2 or 3*** is subject to the jurisdiction of the Justice Court of the Township of Sparks and is guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment for not more than 6 months, or both.

6. Any person who violates any of the provisions of this section shall be ineligible to hold any City office or position for a period of 5 years and **,** if he is an officer or employee of the City, shall immediately forfeit his office or position.

Sec. 5. Section 3.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 107, Statutes of Nevada 2003, at page 603, is hereby amended to read as follows:

Sec. 3.010 Mayor: Duties; Mayor pro tempore.

1. The Mayor shall:

(a) Preside over the meetings of the City Council, but is not entitled to vote on any procedural, substantive or other matter.

(b) Act as the head of the government of the City for all purposes.

(c) Perform such emergency duties as may be necessary for the general health, welfare and safety of the City.

(d) Perform such other duties as may be prescribed by ordinance or by the provisions of Nevada Revised Statutes which apply to a mayor.

2. The Mayor may veto all matters passed by the City Council if he gives notice in writing to the City Clerk within 10 days of the action taken by the City Council. A veto may be overturned only by a vote of at least four-fifths of the City Council. An action requiring the expenditure of money is not effective without the approval of the Mayor, unless he does not disapprove the action within 10 days after it is taken by the City Council, or the City

Council by a four-fifths majority approves such expenditure at a regular meeting.

3. The ~~[City Council shall elect one of its members]~~ ***Mayor shall nominate a member of the City Council*** to be Mayor pro tempore. ***The nominee must be approved by a majority of the total number of members of the City Council. If so approved, the nominee shall be Mayor pro tempore.*** He shall:

(a) Hold the office and title until the next ***general*** election without additional compensation, except as otherwise provided in paragraph (c).

(b) Perform the duties of Mayor during the temporary absence or disability of the Mayor without loss of his rights and powers as a member of the Council.

(c) Act as Mayor until the next ***general*** election if the office of Mayor becomes vacant and draw the salary of Mayor. His salary and position as a member of the Council cease.

Sec. 6. Section 3.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 450, Statutes of Nevada 1985, at page 1315, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties; residence.

1. The City Manager is responsible to the Council for the efficient administration of all the affairs of the City. He shall:

(a) Exercise a careful supervision of the City's general affairs.

(b) Enforce all laws and all acts of the Council which are subject to enforcement by him or by persons under his supervision.

(c) Exercise control over all departments of the City government and its officers and employees **.** ~~**[**, except any department whose chief executive officer is not appointed by the City Manager.**]**~~

(d) Attend all meetings of the Council and its committees, except when the Council is considering his removal, with the right to take part in discussions, but without power to vote.

(e) Recommend to the Council the adoption of such measures and bills as he considers necessary or expedient.

(f) Make investigations into:

(1) The affairs of the City;

(2) Any department or division of the City;

(3) Any contract; or

(4) The proper performance of any obligation owed to the City.

(g) Prepare and submit to the Council the annual budget.

(h) Keep the Council fully informed as to the financial condition and needs of the City.

(i) Submit to the Council, at least once each month, a summary of all claims and bills approved for payment by him.

(j) Not engage in any other business or occupation without the approval of the City Council.

(k) Perform such other duties as prescribed by this Charter or be required by ordinance or resolution of the Council.

2. The City Manager must establish his residence within the City within 90 days after his appointment, unless the period is extended by the Council. He must reside in the City during his term of office.

Sec. 6.3. **Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:**

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the first, third and fifth wards and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~5.]~~ ***2.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[6.]~~ ***3.*** On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[7.]~~ ***4.*** On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected **,** ~~[by the registered voters of the City,]~~ at the general election, a Municipal Judge for Department

1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8. All candidates at]~~

5. In an election that is held pursuant to this section ***:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

Sec. 6.7. **Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:**

Sec. 5.020 Primary elections.

1. ***At an election that is held pursuant to this section:***

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) A candidate for the office of City Councilman must be voted upon ***only*** by the registered voters of the ward ~~[to be represented by them.]~~ ***that he seeks to represent.***

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 7. Section 9.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 350, Statutes of Nevada 1987, at page 793, is hereby amended to read as follows:

Sec. 9.080 Prohibited acts. An employee of the City who has authority to recommend, effectuate or approve the hiring, removal, promotion or discipline of another employee of the City shall not:

1. Discriminate for or against an employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, marital status, ~~[political affiliation or physical, aural or visual handicap,]~~ ***sexual orientation or disability, or because of political or personal reasons or affiliations,*** except when based upon a bona fide occupational qualification;

2. Solicit or consider a written or oral recommendation or statement concerning a person under consideration for hiring, removal, promotion or discipline, except for:

(a) A record of employment of the person maintained by an employer in the regular course of business; or

(b) An evaluation of the person's character, loyalty, ability, aptitude, suitability, qualifications or history of performance, if within the personal knowledge of the person furnishing the evaluation and if relevant to the position for which the person is under consideration;

3. Coerce an employee to engage in a political activity or to provide, or retaliate against an employee for refusing to provide, a political contribution or service;

4. Deceive or willfully obstruct a person regarding his right to seek a position of employment;

5. Influence a person to withdraw from seeking a position of employment to assist or obstruct another person who seeks such a position;

6. Except as specifically authorized by an ordinance, administrative rule or regulation, or state or federal law, grant a preference or advantage to an employee or applicant for employment, including defining the scope or manner of competition or the requirements for a position of employment, to assist or obstruct any person who seeks such a position;

7. Retaliate against an employee or applicant for employment for disclosing information he reasonably believes to evidence:

(a) A violation of an ordinance, administrative rule or regulation, or state or federal law; or

(b) A mismanagement or gross waste of money, an abuse of authority, or a situation that presents a substantial and specific danger to the public health or safety, unless the disclosure is:

(1) Specifically prohibited by a contract to which the City is a party and not required by an ordinance, administrative rule or regulation, or state or federal law; or

(2) Prohibited by an ordinance, administrative rule or regulation, or state or federal law; or

8. Retaliate against an employee or applicant for employment for exercising a right of appeal provided by an ordinance, administrative rule or regulation, or state or federal law.

Sec. 8. This act becomes effective ~~[on]~~ **:**

1. Upon passage and approval for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009 ~~[.]~~ **, for all other purposes.**

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read third time.

Remarks by Assemblymen Claborn and Settelmeyer.

Roll call on Senate Bill No. 376:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 376 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 396.

Bill read third time.

Potential conflict of interest declared by Assemblymen Gustavson, Aizley, and Kirkpatrick.

Roll call on Senate Bill No. 396:

YEAS—34.

NAYS—Carpenter, Christensen, Gansert, Goedhart, Gustavson, Stewart—6.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 396 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 354.

Bill read third time.

Remarks by Assemblyman Bobzien.

Roll call on Senate Bill No. 354:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 354 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 522.

Bill read third time.

The following amendment was proposed by the Committee on Ways and Means:

Amendment No. 930.

AN ACT relating to energy; ~~[creating the Nevada Energy Commission; transferring the duties of the Office of Energy and the Task Force for Renewable Energy and Energy Conservation to the Nevada Energy Commission; revising certain standards for the conservation of energy in buildings;]~~ **creating the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs; authorizing the Director of the Department of Energy to administer the Fund;** authorizing the granting of partial abatements of certain property taxes and local sales and use taxes to ~~[new]~~ **certain** facilities ~~[that generate]~~ **for the generation of process heat from solar renewable energy, wholesale facilities for the generation of** electricity from renewable energy **~~[; requiring the Public Utilities Commission of Nevada to adopt regulations concerning the removal of financial disincentives for an electric utility to support energy conservation; providing for the issuance of industrial development revenue bonds for renewable energy transmission projects;~~**

~~imposing an excise tax on the generation of electricity from renewable energy; providing a penalty;~~] **and facilities for the transmission of electricity produced from renewable energy;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 1-27, 29-56 and 63-66 of this bill create the Nevada Energy Commission effective July 1, 2010, and provide for the transfer of the powers and duties of the Office of Energy and the Task Force for Renewable Energy and Energy Conservation to the Commission. Section 16 additionally requires the new Commission to: (1) develop a program to provide for energy conservation that provides rebates or incentives; and (2) create renewable energy zones and solicit and review proposals for renewable energy transmission projects.~~

~~Section 21 of this bill requires the adoption of a new standard for the conservation of energy in buildings and revises the requirements of a local government regarding standards for energy and energy efficiency in buildings.~~]

Sections 1.1-1.8 of this bill establish the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and the Account for Set-Aside Programs. The Director of the Office of Energy administers the Fund. The Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act and to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects. The Director is prohibited from committing any money in the Fund for expenditure or establishing the priorities for determining which renewable energy systems will receive money or other assistance from the Fund without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Section 28 of this bill authorizes the ~~[Commission on Economic Development]~~ **Nevada Energy Commissioner appointed pursuant to section 1.85 of this bill** to grant partial abatements of property taxes and local sales and use taxes ~~[, other than any taxes imposed for public education,]~~ to ~~[new]~~ **certain** facilities ~~[that generate]~~ **for the generation of process heat from solar renewable energy, wholesale facilities for the generation of** electricity from renewable energy ~~[.]~~ **and facilities for the transmission of electricity produced from renewable energy.** These abatements will cease to be effective in ~~[10]~~ **40** years.

~~[Sections 57-61 of this bill transfer from the Housing Division of the Department of Business and Industry to the Nevada Energy Commission certain duties relating to the distribution of money for weatherization programs to eligible households.~~

~~Section 62 of this bill requires the Public Utilities Commission of Nevada to adopt regulations to establish methods and programs that remove financial disincentives for an electric utility to support energy conservation.~~

~~Sections 67-71 of this bill authorize the issuance of industrial development revenue bonds for renewable energy transmission projects.~~

~~Section 85 of this bill imposes an excise tax on the generation of electricity from renewable energy at the rate of 0.39 mills for each kilowatt hour of electricity generated. Sections 73-98 of this bill provide for the administration, collection and enforcement of the tax by the Department of Taxation in a manner similar to other state taxes.~~**]**

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections **[**~~2 to 12,~~**]** **1.1 to 1.95,** inclusive, of this act.

Sec. 1.1. ***As used in sections 1.1 to 1.8, inclusive, of this act, the words and terms defined in sections 1.15 to 1.45, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 1.15. ***"American Recovery and Reinvestment Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5.***

Sec. 1.2. ***"Construction" means the erection, building, acquisition, alteration, remodeling, improvement or extension of a project and the inspection and supervision of such activities and includes, without limitation:***

1. Any preliminary planning to determine the feasibility of a project;

2. Engineering, architectural, legal, environmental, fiscal or economic investigations or studies, surveys, designs, plans, working drawings, specifications or procedures that comply with the provisions of the American Recovery and Reinvestment Act and any regulations adopted pursuant thereto; and

3. Any other activities reasonably necessary to the completion of a project.

Sec. 1.3. ***"Federal grant" means money authorized by the American Recovery and Reinvestment Act to:***

1. Create a revolving loan fund to assist in the financing of the construction of renewable energy projects; or

2. Fund set-aside programs authorized by the American Recovery and Reinvestment Act.

Sec. 1.4. ***"Fund" means the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans created by section 1.5 of this act.***

Sec. 1.45. ***"Renewable energy system" has the meaning ascribed to it in NRS 704.7815.***

Sec. 1.5. ***1. The Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans is hereby created. The Director shall administer the Fund.***

2. The account to fund activities, other than projects, authorized by the American Recovery and Reinvestment Act, to be known as the Account for

Set-Aside Programs, is hereby created in the Fund for the Municipal Bond Bank.

3. The money in the Fund and the Account for Set-Aside Programs may be used only for the purposes set forth in the American Recovery and Reinvestment Act.

4. All claims against the Fund and the Account for Set-Aside Programs must be paid as other claims against the State are paid.

5. The faith of the State is hereby pledged that the money in the Account for the Revolving Fund and the Account for Set-Aside Programs will not be used for purposes other than those authorized by the American Recovery and Reinvestment Act.

Sec. 1.6. 1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a renewable energy system and all proceeds from the sale, refunding or prepayment of obligations of a renewable energy system acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit renewable energy systems not governmentally owned.

Sec. 1.7. 1. The Director shall:

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether renewable energy systems which receive money or other assistance from the Fund or the Account for Set-Aside Programs comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

3. The Director shall not:

(a) Commit any money in the Fund for expenditure for the purposes set forth in section 1.75 of this act; or

(b) Establish the priorities for determining which renewable energy systems will receive money or other assistance from the Fund,

➥ without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 1.75. 1. Except as otherwise provided in section 1.6 of this act, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to renewable energy systems for the construction of renewable energy projects.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A renewable energy system which requests a loan or other financial assistance must demonstrate that it has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that it has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to an existing renewable energy system unless it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. A new renewable energy system, to receive such funding, must demonstrate that it has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

Sec. 1.8. The Director may adopt such regulations as are necessary to carry out the provisions of sections 1.1 to 1.8, inclusive, of this act.

Sec. 1.85. 1. The Governor shall appoint the Nevada Energy Commissioner, subject to confirmation by the Legislature, or the Legislative Commission if the Legislature is not in session.

2. The Commissioner:

(a) Is in the unclassified service of the State;

(b) Serves at the pleasure of the Governor; and

(c) Must have experience and demonstrated expertise in one or more of the following fields:

(1) Financing of energy projects;

(2) Energy generation projects;

(3) Energy transmission projects;

(4) Professional engineering related to energy efficiency; or

(5) Renewable energy.

3. The Commissioner may, within the limits of legislative appropriations or authorizations:

(a) Employ and fix the salaries of or contract for the services of such professional, technical and operational personnel and consultants as the execution of his duties may require;

(b) Employ, or retain on a contract basis, legal counsel who shall:

(1) Act as counsel and attorney for the Commissioner in all actions, proceedings and hearings; and

(2) Generally aid the Commissioner in the performance of his duties; and

(c) Employ such additional personnel as may be required to carry out his duties, who must be in the classified service of the State.

4. A person employed by the Commissioner pursuant to this section must be qualified by training and experience to perform the duties of his employment.

5. The Commissioner and the persons employed by the Commissioner shall not have any conflict of interest relating to the performance of their duties.

Sec. 1.9. The Nevada Energy Commissioner shall:

1. Utilize all available public and private means to:

(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and

(b) Work with educational and research institutes, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.

2. Encourage the development of any sources of renewable energy and any other energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy by, without limitation:

(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:

(1) Assessments of solar, wind and geothermal potential;

(2) Evaluations of natural resource constraints;

(3) Current electric transmission infrastructure and capacity; and

(4) The feasibility of the construction of new electric transmission lines;

(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interface with the Bureau of Land Management, the Department of Defense and other federal agencies in:

(1) Expediting land leases;

(2) Resolving site issues; and

(3) Receiving permits for projects on public lands within the appropriate areas of this State;

(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable energy systems that create a reliable source of energy and maximize use of current or future transmission lines and infrastructure; and

(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.

3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of the geothermal energy resources in this State.

4. If the Commissioner determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:

(a) To conduct environmental studies in connection with the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and

(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.

5. Cooperate with the Director:

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

6. Coordinate activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada in general and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

7. Carry out all other directives concerning energy that are prescribed by the Legislature.

Sec. 1.95. The Commissioner may:

1. Administer any gifts or grants which he is authorized to accept.

2. Expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to such a program.

5. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Commissioner determines are necessary to carry out his duties.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner.

Sec. 2. ~~*[“Commission” means the Nevada Energy Commission.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[“Renewable energy transmission project”:*~~

~~*1. Means a project involving the transmission of electricity generated by renewable energy.*~~

~~*2. Does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~[1. There is hereby created the Nevada Energy Commission.~~

~~2. The Commission consists of three Commissioners who are appointed by the Governor for terms of 4 years and serve in the unclassified service of the State.~~

~~3. The Governor shall appoint as members of the Commission persons who have experience and demonstrated expertise in one or more of the following fields:~~

~~(a) Financing of energy projects;~~

~~(b) Energy generation or transmission projects;~~

~~(c) Professional engineering; and~~

~~(d) Renewable energy.~~

~~4. Not more than two of the Commissioners may:~~

~~(a) Be members of the same political party; or~~

~~(b) Have expertise in the same field.~~

~~5. A vacancy on the Commission must be appointed in the same manner as the original appointment.~~

~~6. Members of the Commission may be reappointed in the same manner as an original appointment.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[1. All Commissioners must:~~

~~(a) Be independent of the industries regulated by the Commission;~~

~~(b) Possess demonstrated competence; and~~

~~(c) Not have a pecuniary interest in any energy company in this State or elsewhere.~~

~~2. Except as otherwise provided in NRS 284.143, the Commissioners shall give their entire time to the business of the Commission and shall not pursue any other business or vocation or hold any other office of profit.~~

~~3. No Commissioner may be a member of any political convention or a member of any committee of any political party.~~

~~4. Before entering upon the duties of his office, each Commissioner shall:~~

~~(a) Swear that all requirements to serve on the Commission have been met; and~~

~~(b) Subscribe to the constitutional oath of office.~~

~~5. The oath of office must be filed in the Office of the Secretary of State.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[The Chairman of the Commission:~~

~~1. Shall serve for a term of 2 years;~~

~~2. Is a position which rotates among the members of the Commission; and~~

~~3. Serves as the Executive Officer of the Commission.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[1. A majority of the Commissioners has full power to act in all matters within the jurisdiction of the Commission.~~

~~2. Before the Commission may enter a final order on a matter, there must be at least two Commissioners who are able to act on the matter.~~

~~*3. Except as otherwise provided in this chapter, all hearings and meetings conducted by the Commission must be open to the public.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[The Commission may sue and be sued in the name of the Nevada Energy Commission.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[1. The Commission shall keep its principal office at Carson City, Nevada, in rooms provided by the Buildings and Grounds Division of the Department of Administration and may maintain another office in Las Vegas, Nevada.*~~

~~*2. If an office is so maintained in Las Vegas, any document which is required to be filed with the Commission may be filed at its office in Las Vegas with the same effect as if it were filed at the office in Carson City.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~*[1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.*~~

~~*2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.*~~

~~*3. The Commission may employ or contract with such persons as may be necessary to conduct the business of the Commission within limits of legislative appropriations and authorizations.]*~~ **(Deleted by amendment.)**

Sec. 11. ~~*[1. The expenditures of each Commissioner and employee of the Commission while traveling on its business must be sworn to by the person who incurred the expense and must be approved by the Chairman of the Commission.*~~

~~*2. The per diem allowance and travel expenses of the members of the Commission and its staff must be paid at the rate established for state officers and employees generally.]*~~ **(Deleted by amendment.)**

Sec. 12. ~~*[The Commission may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.]*~~ **(Deleted by amendment.)**

Sec. 13. ~~[NRS 701.020 is hereby amended to read as follows:~~

~~701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 701.030 to~~ [701.090,] ~~*701.080,* inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[NRS 701.160 is hereby amended to read as follows:~~

~~701.160 The~~ [Director] ~~*Commission* shall prepare a report concerning the status of energy in the State of Nevada and submit it to:~~

~~1. The Governor on or before January 30 of each year; and~~

~~2. The~~ [Legislature] ~~*Director of the Legislative Counsel Bureau* on or before January 30 of each~~ [odd-numbered] ~~year.]~~ **(Deleted by amendment.)**

Sec. 15. ~~[NRS 701.170 is hereby amended to read as follows:~~

~~701.170 The~~ [Director] ~~*Commission* may:~~

~~1. Administer any gifts or grants which the [Office of Energy] *Commission* is authorized to accept for the purposes of this chapter.~~

~~2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.~~

~~3. Enter into any cooperative agreement with any federal or state agency or political subdivision.~~

~~4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.~~

~~5. Assist developers of renewable energy generation projects *or renewable energy transmission projects* in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.~~

~~6. Adopt any regulations that the [Director] *Commission* determines are necessary to carry out [the] *its* duties [of the Office of Energy] pursuant to this chapter.~~

~~7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which [he] *the Commission* determines is necessary or convenient for the exercise of the powers and duties of the [Office of Energy.] *Commission.* The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the [Office of Energy.] *Commission.*~~

~~8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the [Director or the Office of Energy.] *Commission.]*~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 701.180 is hereby amended to read as follows:~~

~~701.180 The [Director] *Commission* shall:~~

~~1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources.~~

~~2. Utilize all available public and private means to provide information to the public about problems relating to energy and to explain how conservation of energy and its sources may be accomplished.~~

~~3. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:~~

~~(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;~~

~~(b) The amount of energy available to meet each level of demand;~~

~~(c) The probable implications of the forecast on the demand and supply of energy; and~~

~~(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.~~

~~4. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.~~

~~5. Encourage the development of:~~

~~(a) Any sources of renewable energy and any other energy projects which will benefit the State; and~~

~~(b) Any measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~6. In conjunction with the Desert Research Institute, review policies relating to the research and development of the State's geothermal resources and make recommendations to the appropriate state and federal agencies for establishing methods of developing the geothermal resources within the State.~~

~~7. Solicit and serve as the point of contact for grants and other money from the Federal Government and other sources to promote:~~

~~(a) Energy projects that enhance the economic development of the State;~~

~~(b) The use of renewable energy; and~~

~~(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~8. Coordinate the activities and programs of the~~ **[**Office of Energy**]** ***Commission*** ~~with the activities and programs of~~ **[**the Task Force,**]** ~~the Consumer's Advocate~~ **,[**and**]** ~~the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~9.~~ **[**~~Carry out all other directives concerning energy that are prescribed by the Governor.~~**]** ***Create renewable energy zones and solicit and review proposals for renewable energy transmission projects in those zones. If the Commission finds that no submitted proposals are suitable for financing, the Commission may plan, build and divest itself of a renewable energy transmission project.***

10. Coordinate with entities within and outside of this State to effectively transmit electricity generated from renewable energy.

11. Develop a program to provide for energy conservation in this State that provides rebates or incentives for such conservation.

12. Develop a program to provide for energy efficiency in this State for residential buildings that provides rebates or incentives for such efficiency.

13. Carry out programs of energy conservation, weatherization and energy efficiency for eligible households pursuant to NRS 702.270.] **(Deleted by amendment.)**

Sec. 17. **[**~~NRS 701.190 is hereby amended to read as follows:~~

~~701.190 1. The [Director] *Commission* shall prepare a comprehensive state energy plan which provides for the promotion of:~~

~~(a) Energy projects that enhance the economic development of the State;~~

~~(b) The use of renewable energy; and~~

~~(c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~2. The comprehensive state energy plan must include provisions for:~~

~~(a) The assessment of the potential benefits of proposed energy projects on the economic development of the State.~~

~~(b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(d) Grants and other money to establish programs and conduct activities which promote:~~

~~(1) Energy projects that enhance the economic development of the State;~~

~~(2) The use of renewable energy; and~~

~~(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language that is easy to understand and which include performance standards for conservation of energy and efficient use of energy.~~

~~(f) Oversight and accountability with respect to all programs and activities described in this subsection.~~

~~(g) Any other matter that the [Task Force] *Commission* determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.~~**] (Deleted by amendment.)**

Sec. 18. ~~[NRS 701.200 is hereby amended to read as follows:~~

~~701.200 1. The [Director] *Commission* may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the comprehensive state energy plan.~~

~~2. In recommending such standards, the [Director] *Commission* shall consider the usage of energy and its sources in the State and the methods available for conservation of those sources.~~**] (Deleted by amendment.)**

Sec. 19. ~~[NRS 701.210 is hereby amended to read as follows:~~

~~701.210 The [Director] *Commission* shall:~~

~~1. Prepare, subject to the approval of the Governor, petroleum allocation and rationing plans for possible energy contingencies. The plans shall be carried out only by executive order of the Governor.~~

~~2. Carry out and administer any federal programs which authorize state participation in fuel allocation programs.~~] **(Deleted by amendment.)**

Sec. 20. ~~[NRS 701.215 is hereby amended to read as follows:~~

~~701.215 The~~ [Director] ~~***Commission*** shall prepare a state energy reduction plan which requires state agencies, departments and other entities in the Executive Branch to reduce grid-based energy purchases for state-owned buildings by 20 percent by 2015.~~] **(Deleted by amendment.)**

Sec. 21. ~~[NRS 701.220 is hereby amended to read as follows:~~

~~701.220 1.~~ The [Director] ~~***Commission*** shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, ***and ASHRAE Standard 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, issued by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.,*** and any amendments to the Code ***or Standard*** that will not materially lessen the effective energy savings requirements of the Code ***or Standard*** and are deemed necessary to support effective compliance and enforcement of the Code [,] ***or Standard,*** and must establish the minimum standards for:

~~(a) The construction of floors, walls, ceilings and roofs;~~

~~(b) The equipment and systems for heating, ventilation and air-conditioning;~~

~~(c) Electrical equipment and systems;~~

~~(d) Insulation; and~~

~~(e) Other factors which affect the use of energy in a building.~~

~~2.~~ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code [,] ***and the Standard,*** and any amendments thereto, ~~every third year.~~

~~2. The~~ [Director] ~~***Commission*** may exempt a building from a standard if~~ [he] ~~***the Commission*** determines that application of the standard to the building would not accomplish the purpose of the regulations.~~

~~3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.~~

~~4. The standards adopted by the~~ [Director] ~~***Commission*** are the minimum standards for the conservation of energy and energy efficiency~~ [~~which apply only to areas in which the governing body of the local government has not adopted standards for the conservation of energy and energy efficiency in buildings. Such governing bodies shall assist the Director in the enforcement of the regulations adopted pursuant to this section.~~] ***in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:***

(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the Commission in its building code;

~~***(b) May adopt higher or more stringent standards if approved by the Commission; and***~~

~~***(c) Shall enforce the standards adopted.***~~

~~5. The [~~Director~~] ***Commission*** shall solicit comments regarding the adoption of regulations pursuant to this section from:~~

~~(a) Persons in the business of constructing and selling homes;~~

~~(b) Contractors;~~

~~(c) Public utilities;~~

~~(d) Local building officials; and~~

~~(e) The general public,~~

~~before adopting any regulations. The [~~Director~~] ***Commission*** must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before [~~he~~] ***the Commission*** may adopt any regulations pursuant to this section.]~~ **(Deleted by amendment.)**

Sec. 22. ~~[NRS 701.230 is hereby amended to read as follows:~~

~~701.230 1. In a county whose population is 100,000 or more, a building whose construction began on or after October 1, 1983, must not contain a system using electric resistance for heating spaces unless:~~

~~(a) The system is merely supplementary to another means of heating;~~

~~(b) Under the particular circumstances no other primary means of heating the spaces is a feasible or economical alternative to heating by electric resistance; or~~

~~(c) The [~~Office of Energy~~] ***Commission*** determines that the present or future availability of other sources of energy is so limited as to justify the use of such a system.~~

~~2. This section does not prohibit the use of incandescent or fluorescent lighting.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 701.240 is hereby amended to read as follows:~~

~~701.240 1. The [~~Director~~] ***Commission*** shall develop a program to distribute money, within the limits of legislative appropriation, in the form of grants, incentives or rebates to persons to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems, if the [~~Director~~] ***Commission*** determines that the distribution of money to a person for that purpose will encourage, promote or stimulate:~~

~~(a) The development or use of sources of renewable energy in the State or the development of industries or technologies that use sources of renewable energy in the State;~~

~~(b) The conservation of energy in the State, the diversification of the types of energy used in the State or any reduction in the dependence of the State on foreign sources of energy;~~

~~(c) The protection of the natural resources of the State or the improvement of the environment;~~

~~(d) The enhancement of existing utility facilities or any other infrastructure in the State or the development of new utility facilities or any other infrastructure in the State; or~~

~~(c) The investment of capital or the expansion of business opportunities in the State or any growth in the economy of the State.~~

~~2. The [Director] *Commission* may adopt any regulations that are necessary to carry out the provisions of this section.~~

~~3. The [Director] *Commission* shall not distribute money to any person pursuant to this section unless:~~

~~(a) The person complies with any requirements that the [Director] *Commission* adopts by regulation; and~~

~~(b) The distribution of the money is consistent with one or more of the public purposes set forth in paragraphs (a) to (e), inclusive, of subsection 1.~~

~~4. As used in this section, "person" includes, without limitation, any state or local governmental agency or entity.]~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 701.250 is hereby amended to read as follows:~~

~~701.250 1. The [Director] *Commission* shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.~~

~~2. The regulations must include, without limitation:~~

~~(a) Standards for evaluating the energy consumption of residential property; and~~

~~(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.~~

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

~~(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.~~

~~(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.]~~ **(Deleted by amendment.)**

Sec. 25. ~~[NRS 701.260 is hereby amended to read as follows:~~

~~701.260 1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.~~

~~2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the [Director] *Commission* pursuant to subsection 3 for lumens per watt of electricity consumed.~~

~~3. The [Director] *Commission* shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:~~

~~(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy~~

~~efficiency established by the [~~Director~~] *Commission* must exceed 25 lumens per watt of electricity consumed.~~

~~(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.~~

~~4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the [~~Director~~] *Commission* by regulation.]~~ **(Deleted by amendment.)**

Sec. 26. ~~[NRS 701.370 is hereby amended to read as follows:~~

~~701.370 1. The Trust Fund for Renewable Energy and Energy Conservation is hereby created in the State Treasury.~~

~~2. The [~~Task Force~~] *Commission* shall administer the Fund. As administrator of the Fund, the [~~Task Force:~~] *Commission:*~~

~~(a) Shall maintain the financial records of the Fund;~~

~~(b) Shall invest the money in the Fund as the money in other state funds is invested;~~

~~(c) Shall manage any account associated with the Fund;~~

~~(d) Shall maintain any instruments that evidence investments made with the money in the Fund;~~

~~(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and~~

~~(f) May perform any other duties that are necessary to administer the Fund.~~

~~3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.~~

~~4. Not more than 2 percent of the money in the Fund may be used to pay the costs of administering the Fund.~~

~~5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.~~

~~6. All money that is deposited or paid into the Fund may only be expended pursuant to an allocation made by the [~~Task Force.~~] *Commission.* Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.]~~ **(Deleted by amendment.)**

Sec. 27. ~~[NRS 701.380 is hereby amended to read as follows:~~

~~701.380 [1.] The [~~Task Force~~] *Commission* shall:~~

~~[(a) Advise the Office of Energy in:~~

~~(1) The development and periodic review of the comprehensive state energy plan with regard to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

(2) The distribution of money to persons pursuant to NRS 701.240 to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems.

(b) Coordinate its activities and programs with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada and other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c)**]** ***1.*** Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:

[(1)**]** ***(a)*** Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

[(2)**]** ***(b)*** Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

[(3)**]** ***(c) Establish a program to offset consumer utility costs.***

(d) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

[(4)**]** ***(e)*** Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing on-site generation systems, net metering systems and distributed generation systems that use renewable energy.

[(d) Take any other actions that the Task Force deems necessary to carry out its duties, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the Task Force in carrying out its duties.**]**

2. **[**The Task Force shall prepare an**]** ***Include in the*** annual report **[**concerning its activities and programs and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include,**]** ***submitted pursuant to NRS 701.160, the status of the activities and programs that received money from the Trust Fund for Renewable Energy and Energy Conservation, including,*** without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

~~(d) An analysis of the coordination between the [Task Force] *Commission* and other officers and agencies; and~~

~~(e) Any changes planned for each activity and program.~~

~~3. As used in this section, "distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed.]~~ **(Deleted by amendment.)**

Sec. 27.5. **Chapter 701A of NRS is hereby amended by adding thereto the provisions set forth as sections 28 and 28.5 of this act.**

Sec. 28. ~~[Chapter 701A of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy or a facility for the transmission of electricity produced from renewable energy in this State may apply to the ~~[Commission on Economic Development]~~ Director for a partial abatement of ~~[one or more of]~~ the local sales and use taxes ~~[or]~~ , the taxes imposed pursuant to chapter 361 of NRS ~~[, other than any taxes imposed for public education.~~

~~2. Except as otherwise provided in subsection 3, the Commission on Economic Development]~~ , or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. A person who intends to locate a facility for the generation of electricity from geothermal resources in this State may apply to the Director for a partial abatement of local sales and use taxes. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to this section.

2. As soon as practicable after the Director receives such an application, the Director shall submit the application to the Commissioner and forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

➥ With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application. The Commissioner shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in this subsection have received a copy of the application.

3. The Commissioner shall approve an application for a partial abatement pursuant to this section if the ~~[Commission]~~ Commissioner makes the following determinations:

(a) ~~[The facility is consistent with:~~

~~(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and~~

~~(2) Any guidelines adopted pursuant to the State Plan.~~

~~(b)]~~ The applicant has executed an agreement with the ~~[Commission]~~ Commissioner which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ 6, continue in operation in this State for a period specified by the ~~[Commission,]~~ Commissioner, which must be at least ~~[5]~~ 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

~~[(c)]~~ (b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

~~[(d)]~~ (c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

~~[(e)]~~ (d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Commissioner for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least $3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Commissioner by regulation pursuant to subsection 9.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

~~*[3. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission:*~~

~~*(a) Shall not consider the application unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, city or town.*~~

~~*(b) Shall provide notice to the governing body of the county and the governing body of the city or town, if any, in which the person intends to locate a facility. The notice required pursuant to this paragraph must set forth the date, time and location of the hearing at which the Commission will consider the application.]*~~

4. Notwithstanding the provisions of subsection 2, the Commissioner may, if the Commissioner determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 3;

(b) Make the requirements set forth in paragraph (d) or (e) of subsection 3 more stringent; or

(c) Add additional requirements that a facility must meet to qualify for a partial abatement.

5. If the ~~*[Commission on Economic Development]*~~ ***Commissioner approves an application for a partial abatement pursuant to this section of:***

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of ~~*[2 years or, if the agreement required by paragraph (b) of subsection 2 requires that at least 30 percent of the materials used in the construction of the facility must be purchased in this State, for a duration of 5 years;]*~~ ***the 20 fiscal years immediately following the date of approval of the application;***

(2) Be equal to ~~*[50]*~~ ***55 percent of the taxes on real and personal property payable by the facility each year*** ***;*** ~~*[, other than any taxes imposed for public education;]*~~ ***and***

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes ~~*[, the]*~~ ***:***

(1) The partial abatement must:

~~*[(1)]*~~ ***(I) Be for*** ~~*[a duration of]*~~ ***the 2 years*** ~~*[or, if the agreement required by paragraph (b) of subsection 2 requires that at least 30 percent of the materials used in the construction of the facility must be purchased in this State, for a duration of 5 years;*~~

~~*(2)]*~~ ***beginning on the date of approval of the application;***

(II) Be equal to ~~*[50 percent of the local sales and use taxes payable by the facility each year, other than any taxes imposed for public education; and*~~

~~*(3)]*~~ ***that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.5 percent; and***

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

~~[5.]~~ ***(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.5 percent.***

6. Upon approving an application for a partial abatement pursuant to this section, the ~~[Commission on Economic Development]~~ Commissioner shall immediately notify the Director of the terms of the abatement and the Director shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The ~~[Nevada Tax Commission;~~

~~(c) The Nevada Energy Commission; and~~

~~(d) If the partial abatement is from property taxes imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the facility will be located.~~

~~6. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.~~

~~7. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.~~

~~8.]~~ ***board of county commissioners;***

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

7. As soon as practicable after receiving a copy of:

(a) An application pursuant to subsection 2:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and forward a copy of the fiscal note to the Director for submission to the Commissioner; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government and to the Director for submission to the Commissioner.

(b) A certificate of eligibility pursuant to subsection 6, the Department of Taxation shall forward a copy of the certificate to each affected local government.

8. A partial abatement approved by the Commissioner pursuant to this section terminates upon any determination by the Commissioner that the facility has ceased to meet any eligibility requirements for the abatement. The Commissioner shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the

facility has ceased to meet those requirements. The Commissioner shall immediately provide notice of each determination of termination to the Director, and the Director shall immediately provide a copy of the notice to:

(a) The Commissioner, who shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

9. The Commissioner:

(a) Shall adopt regulations:

(1) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to this section;

(2) Prescribing such requirements for an application for a partial abatement pursuant to this section as will ensure that all information and other documentation necessary for the Commissioner to make an appropriate determination is filed with the Director;

(3) Requiring each recipient of a partial abatement pursuant to this section to file annually with the Director, for submission to the Commissioner, such information and documentation as may be necessary for the Commissioner to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(4) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 3; and

(b) May adopt such other regulations as the Commissioner determines to be necessary to carry out the provisions of this section.

10. Notwithstanding any statutory provision to the contrary, if the Commissioner approves an application for a partial abatement pursuant to this section of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(1) For the period beginning on July 1, 2009, and ending on June 30, 2011:

(I) Forty-five percent of that amount is deposited in the unrestricted balance of the State General Fund; and

(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive; and

(2) For the period beginning on July 1, 2011, and ending on June 30, 2049:

(I) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by section 28.5 of this act; and

(II) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

(b) Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

11. As used in this section:

(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:

(1) Agricultural crops and agricultural wastes and residues;

(2) Wood and wood wastes and residues;

(3) Animal wastes;

(4) Municipal wastes; and

(5) Aquatic plants.

(b) "Commissioner" means the Nevada Energy Commissioner appointed pursuant to section 1.85 of this act.

(c) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(d) "Facility for the generation of electricity from renewable energy" [and "facility" mean] means a facility for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy; and

(2) Has a generating capacity of at least 10 [kilowatts.] megawatts.

➥ The term [includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term] does not include a facility that is located on residential property.

[(c)] (e) "Facility for the generation of process heat from solar renewable energy" means a facility that:

(1) Uses solar renewable energy to generate process heat; and

(2) Has an output capacity of at least 12,920,000 British thermal units per hour.

(f) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.

[(d)] (g) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

[(e)] (h) "Renewable energy" means:

(1) Biomass;

(2) Fuel cells;

(3) Solar energy;

(4) Waterpower; or

(5) Wind.

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

~~*[(f) "Taxes imposed for public education" means:*~~

~~*(1) Any ad valorem tax authorized or required by chapter 387 of NRS;*~~

~~*(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;*~~

~~*(3) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and*~~

~~*(4) Any other ad valorem tax or local sales and use taxes for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]*~~

(i) "Wholesale facility for the generation of electricity from renewable energy" means a facility for the generation of electricity from renewable energy that, except as otherwise provided in subparagraph (2), does not sell the electricity to the end user of the electricity. The term includes:

(1) All the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.

(2) A facility that is owned, leased or otherwise controlled by an entity that has authority to sell electricity and provide transmission services or distribution services, or both.

Sec. 28.5. ***The Renewable Energy Fund is hereby created. The Nevada Energy Commissioner appointed pursuant to section 1.85 of this act shall administer the Fund. The interest and income earned on the money in the fund must be credited to the fund. The money in the fund must be used primarily to defer the rate of the utility to the consumer or otherwise offset the cost of electricity and natural gas to retail customers. The Commissioner may establish other uses of the money in the Fund by regulation.***

Sec. 29. ~~[NRS 701A.100 is hereby amended to read as follows:~~

~~701A.100 1. The~~ **[**Director of the Office of Energy**]** ~~*Nevada Energy Commission*~~ ~~shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110.~~

~~2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System, except that the standards adopted by the~~ **[**Director:**]** ~~*Nevada Energy Commission:*~~

~~(a) Except as otherwise provided in paragraphs (b) and (c), must not include:~~

~~(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System for at least 2 years; or~~

~~(2) Standards for homes;~~

~~(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and~~

~~(c) Must require a building or other structure to obtain:~~

~~(1) At least 3 points of credit for energy conservation to meet the equivalent of the silver level;~~

~~(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and~~

~~(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.~~

~~3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.~~**] (Deleted by amendment.)**

Sec. 30. **[**~~NRS 701A.110 is hereby amended to read as follows:~~

~~701A.110 1. Except as otherwise provided in this section, the~~ **[**Director**]** ~~***Nevada Energy Commission*** shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the~~ **[**Director**]** ~~***Nevada Energy Commission*** pursuant to NRS 701A.100, if:~~

~~(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:~~

~~(1) Private activity bonds must not be considered funding provided by a governmental entity.~~

~~(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.~~

~~(b) The owner of the property:~~

~~(1) Submits an application for the partial abatement to the~~ **[**Director.**]** ***Nevada Energy Commission.*** ~~If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.~~

~~(2) Except as otherwise provided in this subparagraph, provides to the~~ **[**Director,**]** ~~***Nevada Energy Commission,*** within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the~~

~~Green Building Rating System adopted by the [Director] *Nevada Energy Commission* pursuant to NRS 701A.100. The [Director] *Nevada Energy Commission* may, for good cause shown, extend the period for providing such proof.~~

~~2. As soon as practicable after the [Director] *Nevada Energy Commission* receives:~~

~~(a) The application required by subsection 1, the [Director] *Nevada Energy Commission* shall forward a copy of that application to the:~~

~~(1) Chief of the Budget Division of the Department of Administration;~~

~~(2) Department of Taxation;~~

~~(3) County assessor;~~

~~(4) County treasurer; and~~

~~(5) Commission on Economic Development.~~

~~(b) The application and proof required by subsection 1, the [Director] *Nevada Energy Commission* shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:~~

~~(1) Department of Taxation;~~

~~(2) County assessor;~~

~~(3) County treasurer; and~~

~~(4) Commission on Economic Development.~~

~~3. As soon as practicable after receiving a copy of:~~

~~(a) An application pursuant to paragraph (a) of subsection 2:~~

~~(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and~~

~~(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.~~

~~(b) A certificate of eligibility pursuant to paragraph (b) of subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.~~

~~4. The partial abatement:~~

~~(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:~~

~~(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;~~

~~(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or~~

~~(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.~~

~~(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.~~

~~(c) Terminates upon any determination by the~~ [Director] ***Nevada Energy Commission*** ~~that the building or other structure has ceased to meet the equivalent of the silver level or higher. The~~ [Director] ***Nevada Energy Commission*** ~~shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The~~ [Director] ***Nevada Energy Commission*** ~~shall immediately provide notice of each determination of termination to the:~~

~~(1) Department of Taxation, who shall immediately notify each affected local government of the determination;~~

~~(2) County assessor;~~

~~(3) County treasurer; and~~

~~(4) Commission on Economic Development.~~

~~5. The~~ [Director] ***Nevada Energy Commission*** ~~shall adopt regulations:~~

~~(a) Establishing the qualifications and methods to determine eligibility for the abatement;~~

~~(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the~~ [Director;] ***Nevada Energy Commission;*** ~~and~~

~~(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,~~

~~➥ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.~~

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

~~(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.~~

~~(b)~~ [~~"Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.~~

~~(c)~~] ~~"Taxes imposed for public education" means:~~

~~(1) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and~~

~~(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]~~ **(Deleted by amendment.)**

Sec. 31. ~~[NRS 701B.080 is hereby amended to read as follows:~~

~~701B.080 "Participant" means a person who has been selected by the [Task Force] *Nevada Energy Commission* to participate in the Solar Program.]~~ **(Deleted by amendment.)**

Sec. 32. ~~[NRS 701B.200 is hereby amended to read as follows:~~

~~701B.200 The *Public Utilities* Commission *of Nevada* shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that establish:~~

~~1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives;~~

~~2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Solar Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Solar Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and~~

~~(f) Any other information required by the *Public Utilities* Commission [.] *of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 33. ~~[NRS 701B.210 is hereby amended to read as follows:~~

~~701B.210 The *Public Utilities* Commission *of Nevada* shall adopt regulations that establish:~~

~~1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and~~

~~2. The form and content of the master application which a utility must submit to the [Task Force] *Nevada Energy Commission* pursuant to NRS 701B.250.]~~ **(Deleted by amendment.)**

Sec. 34. ~~[NRS 701B.220 is hereby amended to read as follows:~~

~~701B.220 In adopting regulations for the Solar Program, the *Public Utilities* Commission *of Nevada* shall adopt regulations establishing an incentive for participation in the Solar Program.~~ **(Deleted by amendment.)**

Sec. 35. ~~NRS 701B.230 is hereby amended to read as follows:~~

~~701B.230 1. Each year on or before the date established by the *Public Utilities* Commission~~ **,** ~~*of Nevada,* a utility shall file with the *Public Utilities* Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.~~

~~2. The *Public Utilities* Commission *of Nevada* shall:~~

~~(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the *Public Utilities* Commission; and~~

~~(b) Approve each annual plan with such modifications and upon such terms and conditions as the *Public Utilities* Commission finds necessary or appropriate to facilitate the Solar Program.~~

~~3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the *Public Utilities* Commission~~ **.** ~~*of Nevada.*~~

~~4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.~~ **(Deleted by amendment.)**

Sec. 36. ~~NRS 701B.240 is hereby amended to read as follows:~~

~~701B.240 1. The Solar Energy Systems Incentive Program is hereby created.~~

~~2. The Solar Program must have three categories as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.~~

~~3. To be eligible to participate in the Solar Program, a person must:~~

~~(a) Meet the qualifications established by the *Public Utilities* Commission *of Nevada* pursuant to NRS 701B.210;~~

~~(b) Submit an application to a utility and be selected by the Task Force *Nevada Energy Commission* for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.260;~~

~~(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on~~

~~experience of the solar energy system by the public.~~ **] (Deleted by amendment.)**

Sec. 37. ~~[NRS 701B.250 is hereby amended to read as follows:~~

~~701B.250 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.~~

~~2. Each year on or before the date established by the *Public Utilities* Commission~~ **[**~~,~~**]** ~~*of Nevada,* a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the~~ **[**~~Task Force:~~**]** ~~*Nevada Energy Commission:*~~

~~(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and~~

~~(b) A master application containing all the applications recommended by the utility.~~

~~3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the *Public Utilities* Commission~~ **[**~~.~~**]** ~~*of Nevada.* An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to NRS 701B.260.~~**] (Deleted by amendment.)**

Sec. 38. ~~[NRS 701B.260 is hereby amended to read as follows:~~

~~701B.260 1. Except as otherwise provided in this section, the *Public Utilities* Commission *of Nevada* may approve, for a program year, solar energy systems:~~

~~(a) Totaling 2,000 kilowatts of capacity for school property;~~

~~(b) Totaling 760 kilowatts of capacity for public and other property; and~~

~~(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.~~

~~2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the *Public Utilities* Commission *of Nevada* may, in any combination it deems appropriate:~~

~~(a) Allow a utility to submit additional applications to the~~ **[**~~Task Force~~**]** ~~*Nevada Energy Commission* from applicants who want to participate in that category; or~~

~~(b) Reallocate any of the unused capacity in that category to any of the other categories,~~

~~* but in no case may the sum of the allocated total capacities of all the categories be greater than 3,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.~~

~~3. To promote the installation of solar energy systems on as many school properties as possible, the *Public Utilities* Commission *of Nevada* may not approve for use in the Solar Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed on school property on or after July 1, 2007, unless the *Public Utilities* Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school property.~~

~~4. After reviewing the master application submitted by a utility pursuant to NRS 701B.250 and ensuring that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the [Task Force] *Nevada Energy Commission* shall:~~

~~(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and~~

~~(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.~~

~~5. Not later than 30 days after the date on which the [Task Force] *Nevada Energy Commission* selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the [Task Force] *Nevada Energy Commission* on behalf of the applicant shall provide written notice of the selection to the applicant.~~

~~6. After the [Task Force] *Nevada Energy Commission* selects an applicant to be on the list of participants, the utility which submitted the application to the [Task Force] *Nevada Energy Commission* on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of NRS 701B.250, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.]~~ **(Deleted by amendment.)**

Sec. 39. ~~[NRS 701B.270 is hereby amended to read as follows:~~

~~701B.270 1. Except as otherwise provided in this section, if the *Public Utilities* Commission *of Nevada* determines that a participant has not complied with the requirements for participation in the Solar Program, the *Public Utilities* Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.~~

~~2. The *Public Utilities* Commission *of Nevada* may, without notice or an opportunity for a hearing, withdraw from the Solar Program:~~

~~(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.~~

~~(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar~~

~~energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.~~

~~3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.~~**]** **(Deleted by amendment.)**

Sec. 40. **[**~~NRS 701B.290 is hereby amended to read as follows:~~

~~701B.290 1. After a participant installs a solar energy system included in the Solar Program, the ***Public Utilities*** Commission ***of Nevada*** shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the ***Public Utilities*** Commission pursuant to NRS 704.7821.~~

~~2. The ***Public Utilities*** Commission ***of Nevada*** shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.~~

~~3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.~~**]** **(Deleted by amendment.)**

Sec. 41. **[**~~NRS 701B.470 is hereby amended to read as follows:~~

~~701B.470 "Participant" means a person who has been selected by the~~ **[**~~Task Force~~**]** ~~***Nevada Energy Commission*** pursuant to NRS 701B.620 to participate in the Wind Demonstration Program.~~**]** **(Deleted by amendment.)**

Sec. 42. **[**~~NRS 701B.580 is hereby amended to read as follows:~~

~~701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.~~

~~2. The Program must have four categories as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~

~~3. To be eligible to participate in the Program, a person must:~~

~~(a) Meet the qualifications established by the ***Public Utilities*** Commission ***of Nevada*** pursuant to NRS 701B.590;~~

~~(b) Submit an application to a utility and be selected by the~~ **[**~~Task Force~~**]** ~~***Nevada Energy Commission*** for inclusion in the Program pursuant to NRS 701B.610 and 701B.620;~~

~~(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and~~

~~(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.~~**]** **(Deleted by amendment.)**

Sec. 43. **[**~~NRS 701B.590 is hereby amended to read as follows:~~

~~701B.590 The *Public Utilities* Commission *of Nevada* shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:~~

~~1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.~~

~~2. The type of incentives available to participants in the Program and the level or amount of those incentives.~~

~~3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:~~

~~(a) A detailed plan for advertising the Program;~~

~~(b) A detailed budget and schedule for carrying out and administering the Program;~~

~~(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;~~

~~(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;~~

~~(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and~~

~~(f) Any other information required by the *Public Utilities* Commission [.] *of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 44. ~~[~~NRS 701B.600 is hereby amended to read as follows:

~~701B.600 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the *Public Utilities* Commission *of Nevada* pursuant to NRS 701B.610.~~

~~2. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.]~~ **(Deleted by amendment.)**

Sec. 45. ~~[~~NRS 701B.610 is hereby amended to read as follows:

~~701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the *Public Utilities* Commission *of Nevada* its annual plan for carrying out and administering the~~

~~Wind Demonstration Program within its service area for the following program year.~~

~~2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the *Public Utilities* Commission *of Nevada* shall:~~

~~(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and~~

~~(b) Approve the annual plan with such modifications and upon such terms and conditions as the *Public Utilities* Commission finds necessary or appropriate to facilitate the Program.~~

~~3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the [Task Force] *Nevada Energy Commission* the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The [Task Force] *Nevada Energy Commission* shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.~~

~~4. Except as otherwise provided in NRS 701B.620, the [Task Force] *Nevada Energy Commission* may approve, from among the applications recommended by each utility, wind energy systems totaling:~~

~~(a) For the program year beginning July 1, 2008:~~

~~(1) 500 kilowatts of capacity for school property;~~

~~(2) 500 kilowatts of capacity for other public property;~~

~~(3) 700 kilowatts of capacity for private residential property and small business property; and~~

~~(4) 700 kilowatts of capacity for agricultural property.~~

~~(b) For the program year beginning July 1, 2009:~~

~~(1) An additional 250 kilowatts of capacity for school property;~~

~~(2) An additional 250 kilowatts of capacity for other public property;~~

~~(3) An additional 350 kilowatts of capacity for private residential property and small business property; and~~

~~(4) An additional 350 kilowatts of capacity for agricultural property.~~

~~(c) For the program year beginning July 1, 2010:~~

~~(1) An additional 250 kilowatts of capacity for school property;~~

~~(2) An additional 250 kilowatts of capacity for other public property;~~

~~(3) An additional 350 kilowatts of capacity for private residential property and small business property; and~~

~~(4) An additional 350 kilowatts of capacity for agricultural property.]~~

(Deleted by amendment.)

Sec. 46. ~~[NRS 701B.620 is hereby amended to read as follows:~~

~~701B.620 1. Based on the applications submitted by each utility for a program year, the [Task Force] *Nevada Energy Commission* shall:~~

~~(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and~~

~~(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.~~

~~2. Not later than 30 days after the date on which the [~~Task Force~~] *~~Nevada Energy Commission~~* selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the [~~Task Force~~] *~~Nevada Energy Commission~~* on behalf of the applicant shall provide written notice of the selection to the applicant.~~

~~3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the [~~Task Force~~] *~~Nevada Energy Commission~~* may, in any combination it deems appropriate:~~

~~(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or~~

~~(b) Reallocate any of the unused capacity in that category to any of the other categories.~~

~~4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the *Public Utilities* Commission [.] *of Nevada.* An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.]~~ **(Deleted by amendment.)**

Sec. 47. ~~[NRS 701B.630 is hereby amended to read as follows:~~

~~701B.630 1. Except as otherwise provided in this section, if the [~~Task Force~~] *~~Nevada Energy Commission~~* determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the [~~Task Force~~] *~~Nevada Energy Commission~~* shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.~~

~~2. The [~~Task Force~~] *~~Nevada Energy Commission~~* may, without notice or an opportunity for a hearing, withdraw from the Program:~~

~~(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.~~

~~(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.~~

~~3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.]~~ **(Deleted by amendment.)**

Sec. 48. ~~[NRS 701B.640 is hereby amended to read as follows:~~

~~701B.640 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the *Public Utilities* Commission *of Nevada* shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the *Public Utilities* Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.~~

~~2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.]~~ **(Deleted by amendment.)**

Sec. 49. ~~[NRS 701B.740 is hereby amended to read as follows:~~

~~701B.740 "Participant" means a person who has been selected by the *Public Utilities* Commission *of Nevada* to participate in the Waterpower Demonstration Program.]~~ **(Deleted by amendment.)**

Sec. 50. ~~[NRS 701B.820 is hereby amended to read as follows:~~

~~701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.~~

~~2. The Waterpower Demonstration Program is created for agricultural uses.~~

~~3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the [Task Force] *Nevada Energy Commission* for inclusion in the Waterpower Demonstration Program.~~

~~4. The *Public Utilities* Commission *of Nevada* shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.]~~ **(Deleted by amendment.)**

Sec. 51. ~~[NRS 701B.830 is hereby amended to read as follows:~~

~~701B.830 The [Task Force] *Nevada Energy Commission* is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the *Public Utilities* Commission [.] *of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 52. ~~[NRS 701B.840 is hereby amended to read as follows:~~

~~701B.840 The *Public Utilities* Commission *of Nevada* shall adopt regulations that establish:~~

~~1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.~~

~~2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:~~

~~(a) An advertising plan;~~

~~(b) A detailed budget;~~

~~(c) A schedule;~~

~~(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;~~

~~(e) An inspection and verification process;~~

~~(f) Proposed training and educational activities; and~~

~~(g) Any other information required by the *Public Utilities* Commission [.] *of Nevada.]*~~ **(Deleted by amendment.)**

Sec. 53. ~~[~~NRS 701B.850 is hereby amended to read as follows:

~~701B.850 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the *Public Utilities* Commission *of Nevada* for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.~~

~~2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the *Public Utilities* Commission *of Nevada* shall review the annual plan for compliance with the requirements set forth by regulation of the *Public Utilities* Commission.~~

~~3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the [~~Task Force~~] *Nevada Energy Commission* a recommendation of which applications received should be accepted into the program. The [~~Task Force~~] *Nevada Energy Commission* shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of NRS 701B.820.~~

~~4. The [~~Task Force~~] *Nevada Energy Commission* may approve, from among the applications recommended by each utility, waterpower energy systems totaling:~~

~~(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;~~

~~(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and~~

~~(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.]~~ **(Deleted by amendment.)**

Sec. 54. ~~[~~NRS 701B.860 is hereby amended to read as follows:

~~701B.860 Each utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the *Public Utilities* Commission *of Nevada* pursuant to NRS 704.110.]~~ **(Deleted by amendment.)**

Sec. 55. ~~[~~NRS 701B.870 is hereby amended to read as follows:

~~701B.870 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the *Public Utilities* Commission *of Nevada* shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the *Public Utilities*~~

~~Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.~~

~~2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.]~~ **(Deleted by amendment.)**

Sec. 56. ~~[NRS 701B.890 is hereby amended to read as follows:~~

~~701B.890 If the *Public Utilities* Commission *of Nevada* determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the *Public Utilities* Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.]~~ **(Deleted by amendment.)**

Sec. 57. ~~[NRS 702.150 is hereby amended to read as follows:~~

~~702.150 1. The provisions of NRS 702.160 do not apply to any therm of natural gas or any kilowatt-hour of electricity that a retail customer purchases from:~~

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

~~(b) A general improvement district established pursuant to chapter 318 of NRS.~~

~~(c) A cooperative association, nonprofit corporation, nonprofit association or provider of service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.~~

~~2. If a retail customer is exempted from paying the universal energy charge pursuant to subsection 1, the retail customer may not receive money or other assistance from:~~

~~(a) The Division of Welfare and Supportive Services pursuant to NRS 702.260 for any utility service for which the retail customer is exempted from paying the universal energy charge; [or]~~

~~(b) The [Housing Division] *Nevada Energy Commission* pursuant to NRS 702.270 [.] *; or*~~

~~*(c) The Housing Division pursuant to NRS 702.275.]*~~ **(Deleted by amendment.)**

Sec. 58. ~~[NRS 702.260 is hereby amended to read as follows:~~

~~702.260 1. Seventy-five percent of the money in the Fund must be distributed to the Division of Welfare and Supportive Services for programs to assist eligible households in paying for natural gas and electricity. The Division may use not more than 5 percent of the money distributed to it pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Division may use the money distributed to it pursuant to this section only to:~~

~~(a) Assist eligible households in paying for natural gas and electricity.~~

~~(b) Carry out activities related to consumer outreach.~~

~~(c) Pay for program design.~~

~~(d) Pay for the annual evaluations conducted pursuant to NRS 702.280.~~

~~3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the Division pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the Division.~~

~~4. The Division is authorized to render emergency assistance to a household if an emergency related to the cost or availability of natural gas or electricity threatens the health or safety of one or more of the members of the household. Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.~~

~~5. Before July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division shall determine the amount of assistance that the household will receive by using the existing formulas set forth in the state plan for low-income home energy assistance.~~

~~6. On or after July 1, 2002, if a household is eligible to receive assistance pursuant to this section, the Division:~~

~~(a) Shall, to the extent practicable, determine the amount of assistance that the household will receive by determining the amount of assistance that is sufficient to reduce the percentage of the household's income that is spent on natural gas and electricity to the median percentage of household income spent on natural gas and electricity statewide.~~

~~(b) May adjust the amount of assistance that the household will receive based upon such factors as:~~

~~(1) The income of the household;~~

~~(2) The size of the household;~~

~~(3) The type of energy that the household uses; and~~

~~(4) Any other factor which, in the determination of the Division, may make the household particularly vulnerable to increases in the cost of natural gas or electricity.~~

~~7. The Division shall adopt regulations to carry out and enforce the provisions of this section and NRS 702.250.~~

~~8. In carrying out the provisions of this section, the Division shall:~~

~~(a) Solicit advice from the Housing Division *and the Nevada Energy Commission* and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Establish a process for evaluating the programs conducted pursuant to this section;~~

~~(e) Develop a process for making changes to such programs; and~~

~~(f) Engage in annual planning and evaluation processes with the Housing Division *and the Nevada Energy Commission* as required by NRS 702.280.]~~ **(Deleted by amendment.)**

Sec. 59. ~~[NRS 702.270 is hereby amended to read as follows:~~

~~702.270 1. Twenty-five percent of the money in the Fund must be distributed to the [Housing Division] *Nevada Energy Commission* for programs of energy conservation, weatherization and energy efficiency for eligible households. The [Housing Division] *Nevada Energy Commission* may use not more than 6 percent of the money distributed to it pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the [Housing Division] *Nevada Energy Commission* may use the money distributed to it pursuant to this section only to:~~

~~(a) Provide an eligible household with services of basic home energy conservation and home energy efficiency or to assist an eligible household to acquire such services, including, without limitation, services of load management.~~

~~(b) Pay for appropriate improvements associated with energy conservation, weatherization and energy efficiency.~~

~~(c) Carry out activities related to consumer outreach.~~

~~(d) Pay for program design.~~

~~(e) Pay for the annual evaluations conducted pursuant to NRS 702.280.~~

~~3. Except as otherwise provided in subsection 4, to be eligible to receive assistance from the [Housing Division] *Nevada Energy Commission* pursuant to this section, a household must have a household income that is not more than 150 percent of the federally designated level signifying poverty, as determined by the [Housing Division.] *Nevada Energy Commission.*~~

~~4. The [Housing Division] *Nevada Energy Commission* is authorized to render emergency assistance to a household if the health or safety of one or more of the members of the household is threatened because of the structural, mechanical or other failure of:~~

~~(a) The unit of housing in which the household dwells; or~~

~~(b) A component or system of the unit of housing in which the household dwells.~~

~~→ Such emergency assistance may be rendered upon the good faith belief that the household is otherwise eligible to receive assistance pursuant to this section.~~

~~5. The [Housing Division] *Nevada Energy Commission* shall adopt regulations to carry out and enforce the provisions of this section.~~

~~6. In carrying out the provisions of this section, the [Housing Division] *Nevada Energy Commission* shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services *and the Housing Division* and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the programs conducted pursuant to this section;~~

~~(f) Develop a process for making changes to such programs; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services *and the Housing Division* as required by NRS 702.280.~~] **(Deleted by amendment.)**

Sec. 60. [~~NRS 702.275 is hereby amended to read as follows:~~

~~702.275 1. At the beginning of a fiscal year, 30 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.~~

~~2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in NRS 701.250 with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.~~

~~3. To be eligible to receive assistance from the Housing Division pursuant to this section:~~

~~(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and~~

~~(b) The residential property must not meet the standards for energy consumption established pursuant to NRS 701.250.~~

~~4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.~~

~~5. In carrying out the provisions of this section, the Housing Division shall:~~

~~(a) Solicit advice from the Division of Welfare and Supportive Services ***and the Nevada Energy Commission*** and from other knowledgeable persons;~~

~~(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;~~

~~(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;~~

~~(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;~~

~~(e) Establish a process for evaluating the program conducted pursuant to this section;~~

~~(f) Develop a process for making changes to the program; and~~

~~(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services ***and the Nevada Energy Commission*** as required by NRS 702.280.~~**] (Deleted by amendment.)**

Sec. 61. **[**~~NRS 702.280 is hereby amended to read as follows:~~

~~702.280 1. The Division of Welfare and Supportive Services ***, the Nevada Energy Commission*** and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the~~ **[**Divisions**]** ~~***Division of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division*** shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:~~

~~(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;~~

~~(b) The efforts that will be undertaken to improve administrative efficiency;~~

~~(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;~~

~~(d) The measures concerning program design that will be undertaken to improve program effectiveness; and~~

~~(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.~~

~~2. The Division of Welfare and Supportive Services ***, the Nevada Energy Commission*** and the Housing Division jointly shall:~~

~~(a) Conduct an annual evaluation of the programs that~~ **[**~~each~~**]** ~~***the*** Division ***of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division*** carries out pursuant to NRS 702.260, 702.270 and 702.275;~~

~~(b) Solicit advice from the Commission as part of the annual evaluation; and~~

~~(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.~~

~~3. The report prepared pursuant to subsection 2 must include, without limitation:~~

~~(a) A description of the objectives of each program;~~

~~(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;~~

~~(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;~~

~~(d) An analysis of the coordination between the~~ ~~[~~Divisions~~]~~ ~~*Division of Welfare and Supportive Services, the Nevada Energy Commission and the Housing Division*~~ ~~concerning each program; and~~

~~(e) Any changes planned for each program.~~~~]~~ **(Deleted by amendment.)**

Sec. 62. ~~[Chapter 704 is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Commission shall adopt regulations to establish methods and programs for an electric utility which remove financial disincentives that discourage the electric utility from supporting energy conservation, including, without limitation, procedures for an electric utility to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the electric utility for providing service are recovered without regard to the difference in the quantity of electrical energy actually sold by the public utility by taking into account the adjusted and annualized quantity of electrical energy sold during a test year and the growth in the number of customers of the electric utility.*~~

~~*2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the electric utility.]*~~ **(Deleted by amendment.)**

Sec. 63. ~~[NRS 113.115 is hereby amended to read as follows:~~

~~113.115 1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.~~

~~2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the~~ ~~[~~Director of the Office of Energy,~~]~~ ~~*Nevada Energy Commission,*~~ ~~as prescribed in regulations adopted pursuant to NRS 701.250.~~

~~3. Subsection 1 does not apply to a sale or intended sale of residential property:~~

~~(a) By foreclosure pursuant to chapter 107 of NRS.~~

~~(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.~~

~~(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.~~

~~(d) If the seller and purchaser agree to waive the requirements of subsection 1.~~

~~4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.~~**] (Deleted by amendment.)**

Sec. 64. ~~[NRS 332.430 is hereby amended to read as follows:~~

~~332.430 A qualified service company shall provide to the~~ **[**~~Office of Energy within the Office of the Governor~~**]** ~~***Nevada Energy Commission*** information concerning each performance contract which the qualified service company enters into pursuant to NRS 332.300 to 332.440, inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The~~ **[**~~Office of Energy~~**]** ~~***Nevada Energy Commission*** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.~~**] (Deleted by amendment.)**

Sec. 65. ~~[NRS 333A.080 is hereby amended to read as follows:~~

~~333A.080 1. The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the~~ **[**~~Office of Energy within the Office of the Governor,~~**]** ~~***Nevada Energy Commission,*** the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

~~2. In sending out a request for qualifications, the State Public Works Board:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this State; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

~~3. The State Public Works Board shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost savings retrofit;~~

~~(f) Monitoring projects after the projects are installed;~~

~~(g) Data collection and reporting of savings;~~

~~(h) Overall project experience and qualifications;~~

~~(i) Management capability;~~

~~(j) Ability to access long-term financing;~~

~~(k) Experience with projects of similar size and scope; and~~

~~(l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the projects.~~

~~➥~~ ~~In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.~~

~~4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.~~**]** **(Deleted by amendment.)**

Sec. 66. **[**~~NRS 333A.140 is hereby amended to read as follows:~~

~~333A.140 A qualified service company shall provide to the~~ **[**Office of Energy within the Office of the Governor**]** ~~*Nevada Energy Commission*~~ ~~information concerning each performance contract which the qualified service company enters into pursuant to this chapter, including, without limitation, the name of the project, the using agency for which the project is being carried out and the expected operating cost savings. The~~ **[**Office of Energy**]** ~~*Nevada Energy Commission*~~ ~~may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.~~**]** **(Deleted by amendment.)**

Sec. 67. **[**~~Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*"Renewable energy transmission project":*~~

~~*1. Means a project involving the transmission of electricity generated by renewable energy.*~~

~~*2. Does not include a project involving an electric generating facility or system that uses nuclear energy, in whole or in part, to generate electricity.]*~~ **(Deleted by amendment.)**

Sec. 68. **[**~~NRS 349.400 is hereby amended to read as follows:~~

~~349.400 As used in NRS 349.400 to 349.670, inclusive,~~ ~~*and section 67 of this act,*~~ ~~unless the context otherwise requires, the words and terms~~

~~defined in NRS 349.405 to 349.540, inclusive, *and section 67 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 69. ~~[NRS 349.510 is hereby amended to read as follows:~~

~~349.510 "Project" means:~~

~~1. Any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, suitable for new construction, improvement, rehabilitation or redevelopment for:~~

~~(a) Industrial uses, including assembling, fabricating, manufacturing, processing or warehousing;~~

~~(b) Research and development relating to commerce or industry, including professional, administrative and scientific offices and laboratories;~~

~~(c) Commercial enterprises;~~

~~(d) Civic and cultural enterprises open to the general public, including theaters, museums and exhibitions, together with buildings and other structures, machinery, equipment, facilities and appurtenances thereto which the Director deems useful or desirable in connection with the conduct of any such enterprise;~~

~~(e) An educational institution operated by a nonprofit organization not otherwise directly funded by the State which is accredited by a nationally recognized educational accrediting association;~~

~~(f) Health and care facilities and supplemental facilities for health and care;~~

~~(g) The purposes of a corporation for public benefit; or~~

~~(h) A renewable energy generation project~~ **[**.**]** ~~*or renewable energy transmission project.*~~

~~2. Any real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire.~~

~~3. The preservation of a historic structure or its restoration for its original or another use, if the plan has been approved by the Office of Historic Preservation of the Department of Cultural Affairs.]~~ **(Deleted by amendment.)**

Sec. 70. ~~[NRS 349.565 is hereby amended to read as follows:~~

~~349.565 1. The Director may not, under NRS 349.400 to 349.670, inclusive:~~

~~(a) Operate any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development or any health and care facility to which he provided assistance; or~~

~~(b) Except as otherwise provided in subsection 2, assist any manufacturing, industrial, warehousing or commercial enterprise or an organization for research and development to locate in a county or city which would result in the abandonment or closure of an existing facility of a like nature located within that county or city, unless the existing facility is~~

~~operated by the contemplated lessee, purchaser or other obligor or an affiliate of such a person and the facility is to be abandoned or closed because of obsolescence, lack of available labor or limitations at the site of the facility.~~

~~2. The provisions of paragraph (b) of subsection 1 do not apply to:~~

~~(a) Health and care facilities and supplemental facilities for a health and care facility;~~

~~(b) Civic and cultural enterprises open to the general public;~~

~~(c) Enterprises located in a redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;~~

~~(d) Enterprises located in an area designated as an empowerment zone pursuant to sections 1391 to 1397, inclusive, of the Internal Revenue Code of 1986, 26 U.S.C. §§ 1391-97, future amendments to those sections and the corresponding provisions of future internal revenue laws;~~

~~(e) Facilities established by a corporation for public benefit;~~

~~(f) Enterprises whose products are substantially sold, used or distributed outside this state; and~~

~~(g) Renewable energy generation projects~~ **[.]** ~~*or renewable energy transmission projects.]*~~ **(Deleted by amendment.)**

Sec. 71. ~~[~~NRS 349.580 is hereby amended to read as follows:

~~349.580 Except as otherwise provided in NRS 349.595 and 349.640, the Director shall not finance a project unless, before financing:~~

~~1. The Director finds that:~~

~~(a) The project to be financed has been approved for financing pursuant to the requirements of NRS 244A.669 to 244A.763, inclusive, or 268.512 to 268.568, inclusive; and~~

~~(b) There has been a request by a city or county to have the Director issue bonds to finance the project; or~~

~~2. The Director finds and both the Board and the governing body of the city or county where the project is to be located approve the findings of the Director that:~~

~~(a) The project consists of any land, building or other improvement and all real and personal properties necessary in connection therewith, excluding inventories, raw materials and working capital, whether or not in existence, which is suitable for new construction, improvement, preservation, restoration, rehabilitation or redevelopment:~~

~~(1) For manufacturing, industrial, warehousing, civic, cultural or other commercial enterprises, educational institutions, corporations for public benefit or organizations for research and development;~~

~~(2) For a health and care facility or a supplemental facility for a health and care facility;~~

~~(3) Of real or personal property appropriate for addition to a hotel, motel, apartment building, casino or office building to protect it or its occupants from fire;~~

~~(4) Of a historic structure; or~~

~~(5) For a renewable energy generation project~~ **[**~~;~~**]** ~~***or a renewable energy transmission project;***~~

~~(b) The project will provide a public benefit;~~

~~(c) The contemplated lessee, purchaser or other obligor has sufficient financial resources to place the project in operation and to continue its operation, meeting the obligations of the lease, purchase contract or financing agreement;~~

~~(d) There are sufficient safeguards to assure that all money provided by the Department will be expended solely for the purposes of the project;~~

~~(e) The project would be compatible with existing facilities in the area adjacent to the location of the project;~~

~~(f) The project:~~

~~(1) Is compatible with the plan of the State for economic diversification and development or for the marketing and development of tourism in this state; or~~

~~(2) Promotes the generation of electricity in this state;~~

~~(g) Through the advice of counsel or other reliable source, the project has received all approvals by the local, state and federal governments which may be necessary to proceed with construction, improvement, rehabilitation or redevelopment of the project; and~~

~~(h) There has been a request by a city, county, lessee, purchaser, other obligor or other enterprise to have the Director issue revenue bonds for industrial development to finance the project.~~**]** **(Deleted by amendment.)**

Sec. 72. ~~**[**Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 73 to 98, inclusive, of this act.~~**]** **(Deleted by amendment.)**

Sec. 73. ~~**[***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 74 to 79, inclusive, of this act have the meanings ascribed to them in those sections.***]**~~ **(Deleted by amendment.)**

Sec. 74. ~~**[***"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*~~

~~***1. Agricultural crops and agricultural wastes and residues;***~~

~~***2. Wood and wood wastes and residues;***~~

~~***3. Animal wastes;***~~

~~***4. Municipal wastes; and***~~

~~***5. Aquatic plants.***~~**]** **(Deleted by amendment.)**

Sec. 75. ~~**[***"Commission" means the Nevada Tax Commission.***]**~~ **(Deleted by amendment.)**

Sec. 76. ~~**[***"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*~~

~~***1. Uses renewable energy as its primary source of energy; and***~~

~~***2. Has a generating capacity of at least 10 kilowatts,***~~

~~*—except that the term does not include a facility which is located on residential property or a facility which is owned or operated by this State or a political subdivision of this State.]*~~ **(Deleted by amendment.)**

Sec. 77. ~~*[“Fuel cell” means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.]*~~ **(Deleted by amendment.)**

Sec. 78. ~~*[“Renewable energy” means:*~~

~~*1. Biomass;*~~

~~*2. Fuel cells;*~~

~~*3. Solar energy;*~~

~~*4. Waterpower; or*~~

~~*5. Wind.*~~

~~*—The term does not include coal, natural gas, oil, propane or any other fossil fuel, geothermal energy or nuclear energy.]*~~ **(Deleted by amendment.)**

Sec. 79. ~~*[“Taxpayer” means any person liable for the tax imposed by this chapter.]*~~ **(Deleted by amendment.)**

Sec. 80. ~~*[The Department shall:*~~

~~*1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.*~~

~~*2. Deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the Trust Fund for Renewable Energy and Energy Conservation created by NRS 701.370.]*~~ **(Deleted by amendment.)**

Sec. 81. ~~*[1. Each person responsible for maintaining the records of a taxpayer shall:*~~

~~*(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;*~~

~~*(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and*~~

~~*(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.*~~

~~*2. The Department may by regulation specify the types of records which must be kept to determine the amount of the liability of a taxpayer pursuant to the provisions of this chapter.*~~

~~*3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.]*~~ **(Deleted by amendment.)**

Sec. 82. ~~*[1. To verify the accuracy of any return filed or, if no return is filed by a taxpayer, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the tax imposed by this chapter.*~~

~~*2. Any person who may be liable for the tax imposed by this chapter and who keeps outside of this State any books, papers and records relating*~~

~~*thereto shall pay to the Department an amount equal to the allowance provided for state officers and employees generally while traveling outside of the State for each day or fraction thereof during which an employee of the Department is engaged in examining those documents, plus any other actual expenses incurred by the employee while he is absent from his regular place of employment to examine those documents.]*~~ **(Deleted by amendment.)**

Sec. 83. ~~*[The Executive Director may request from any other governmental agency or officer such information as he deems necessary to carry out the provisions of this chapter. If the Executive Director obtains any confidential information pursuant to such a request, he shall maintain the confidentiality of that information in the same manner and to the same extent as provided by law for the agency or officer from whom the information was obtained.]*~~ **(Deleted by amendment.)**

Sec. 84. ~~*[1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.*~~

~~*2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:*~~

~~*(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.*~~

~~*(b) Delivery to a taxpayer or his authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.*~~

~~*(c) Publication of statistics so classified as to prevent the identification of a particular person or document.*~~

~~*(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.*~~

~~*(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of*~~

~~*this or any other state charged with the administration or enforcement of laws relating to taxation.*~~

~~*(f) Exchanges of information pursuant to subsection 3.*~~

~~*3. The Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.]*~~ **(Deleted by amendment.)**

Sec. 85. ~~*[1. An excise tax is hereby imposed on the generation of electricity by each facility that generates electricity from renewable energy in the amount of 0.39 mills for each kilowatt hour of electricity generated by the facility during a calendar quarter.*~~

~~*2. The operator of each facility that generates electricity from renewable energy shall, on or before the last day of the month immediately following each calendar quarter:*~~

~~*(a) File with the Department a return on a form prescribed by the Department; and*~~

~~*(b) Remit to the Department any tax due pursuant to this section for that calendar quarter.]*~~ **(Deleted by amendment.)**

Sec. 86. ~~*[Upon written application made before the date on which payment must be made, the Department may for good cause extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of 1 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.]*~~ **(Deleted by amendment.)**

Sec. 87. ~~*[If the Department determines that any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must be credited on any amounts then due from the person under this chapter, and the balance refunded to the person or his successors in interest.]*~~ **(Deleted by amendment.)**

Sec. 88. ~~*[1. Except as otherwise provided in NRS 360.235 and 360.395:*~~

~~*(a) No refund may be allowed unless a claim for it is filed with the Department within 3 years after the last day of the month following the calendar quarter for which the overpayment was made.*~~

~~*(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.*~~

~~*2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.*~~

~~*3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.*~~

~~*4. Within 30 days after rejecting any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.]*~~ **(Deleted by amendment.)**

Sec. 89. ~~*[1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of the taxes imposed by this chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.*~~

~~*2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.]*~~ **(Deleted by amendment.)**

Sec. 90. ~~*[1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of this State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.*~~

~~*2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.]*~~ **(Deleted by amendment.)**

Sec. 91. ~~*[1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.*~~

~~*2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.]*~~ **(Deleted by amendment.)**

Sec. 92. ~~*[1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the Commission rendered on appeal, the claimant may, within 90 days after the decision is rendered, bring an action against the Department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.*~~

~~*2. If judgment is rendered for the plaintiff, the amount of the judgment must first be credited towards any tax due from the plaintiff.*~~

~~*3. The balance of the judgment must be refunded to the plaintiff.]*~~ **(Deleted by amendment.)**

Sec. 93. ~~*[In any judgment, interest must be allowed at the rate of 6 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.]*~~ **(Deleted by amendment.)**

Sec. 94. ~~*[A judgment may not be rendered in favor of the plaintiff in any action brought against the Department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.]*~~ **(Deleted by amendment.)**

Sec. 95. ~~*[1. The Department may recover a refund or any part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in Carson City or Clark County in the name of the State of Nevada.*~~

~~*2. The action must be tried in Carson City or Clark County unless the court, with the consent of the Attorney General, orders a change of place of trial.*~~

~~*3. The Attorney General shall prosecute the action, and the provisions of NRS, the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.]*~~ **(Deleted by amendment.)**

Sec. 96. ~~*[1. If any amount in excess of $25 has been illegally determined, either by the Department or by the person filing the return, the Department shall certify this fact to the State Board of Examiners, and the latter shall authorize the cancellation of the amount upon the records of the Department.*~~

~~*2. If an amount not exceeding $25 has been illegally determined, either by the Department or by the person filing the return, the Department, without certifying this fact to the State Board of Examiners, shall authorize the cancellation of the amount upon the records of the Department.]*~~ **(Deleted by amendment.)**

Sec. 97. ~~*[1. A person shall not:*~~

~~*(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration with intent to defraud the State or to evade payment of the tax or any part of the tax imposed by this chapter.*~~

~~*(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.*~~

~~*(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter.*~~

~~*2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.*~~**]** **(Deleted by amendment.)**

Sec. 98. ~~**[***The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this chapter.*~~**]** **(Deleted by amendment.)**

Sec. 99. ~~**[**NRS 360.2937 is hereby amended to read as follows:~~

~~360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A~~ **[**~~,~~**]** ***of NRS or sections 73 to 98, inclusive, of this act,*** ~~any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.5 percent per month from the last day of the calendar month following the period for which the overpayment was made.~~

~~2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.~~

~~3. The interest must be paid:~~

~~(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.~~

~~(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.~~**]** **(Deleted by amendment.)**

Sec. 100. ~~**[**NRS 360.297 is hereby amended to read as follows:~~

~~360.297 1. A responsible person who fails to collect or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS,~~ ~~***or sections 73 to 98, inclusive, of this act,***~~ ~~NRS 444A.090 or 482.313, or chapter 680B of NRS, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.~~

~~2. As used in this section, "responsible person" includes:~~

~~(a) An officer or employee of a corporation; and~~

~~(b) A member or employee of a partnership or limited liability company, who whose job or duty it is to collect, account for or pay to the Department any tax or fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of NRS.~~ **(Deleted by amendment.)**

Sec. 101. ~~[NRS 360.300 is hereby amended to read as follows:~~

~~360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 482.313, or chapter 585 or 680B of NRS as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:~~

~~(a) The facts contained in the return;~~

~~(b) Any information within its possession or that may come into its possession; or~~

~~(c) Reasonable estimates of the amount.~~

~~2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.~~

~~3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.~~

~~4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.~~

~~5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.~~ **(Deleted by amendment.)**

Sec. 102. ~~[NRS 360.417 is hereby amended to read as follows:~~

~~360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 73 to 98, inclusive, of this act,* or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 1 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date~~

~~of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.~~**] (Deleted by amendment.)**

Sec. 103. **[**~~NRS 360.419 is hereby amended to read as follows:~~

~~360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320~~ **,** **[**~~or~~**]** ~~chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS,~~ ***or sections 73 to 98, inclusive, of this act*** ~~is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.~~

~~2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.~~

~~3. The Department shall disclose, upon the request of any person:~~

~~(a) The name of the person to whom relief was granted; and~~

~~(b) The amount of the relief.~~

~~4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.~~**] (Deleted by amendment.)**

Sec. 104. **[**~~NRS 360.510 is hereby amended to read as follows:~~

~~360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:~~

~~(a) Not later than 3 years after the payment became delinquent or the determination became final; or~~

~~(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,~~

~~, give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his possession or under his control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.~~

~~2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.~~

~~3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal~~

~~property, or debts in his possession or under his control at the time he received the notice until the Department consents to a transfer or other disposition.~~

~~4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his possession, under his control or owing by him within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.~~

~~5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him to continue to transmit payments to the Department or that his duty to transmit the payments to the Department has ceased.~~

~~6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.~~

~~7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, he is liable to the State for any indebtedness due pursuant to this chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, *or sections 73 to 98, inclusive, of this act,* NRS 482.313, or chapter 585 or 680B of NRS from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.~~ **(Deleted by amendment.)**

Sec. 105. ~~[NRS 701.050, 701.090, 701.150, 701.350, 701.360, 701B.050, 701B.170, 701B.450, 701B.530, 701B.730 and 701B.770 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 106. ~~[1. Any regulations adopted by the Office of Energy within the Office of the Governor to carry out its duties become the regulations of the Nevada Energy Commission on July 1, 2010, and remain in effect until amended or repealed by the Nevada Energy Commission.~~

~~2. The Office of Energy and the Task Force for Renewable Energy and Energy Conservation shall:~~

~~(a) Continue to fulfill their duties until June 30, 2010; and~~

~~(b) Report monthly to the Interim Finance Committee on the status of their operations from the effective date of this act until June 30, 2010.~~

~~3. The Office of Energy within the Office of the Governor and the Task Force for Renewable Energy and Energy Conservation shall cooperate with the Nevada Energy Commission to ensure that the provisions of this act are carried out in an orderly manner, including, without limitation, the transfer or exchange of books and records to the Nevada Energy Commission.~~

~~4. The Governor shall appoint the members of the Nevada Energy Commission on or before July 1, 2010, with:~~

~~(a) One Commissioner having an initial term of 2 years, and serving the initial term of Chairman of the Commission; and~~

~~(b) Two Commissioners having initial terms of 4 years.~~

~~5. The Legislative Counsel shall, in preparing the:~~

~~(a) Reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.~~

~~(b) Supplements to the Nevada Administrative Code, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency.~~

~~6. Any references in a bill or resolution passed by the 75th Session of the Nevada Legislature to an officer, agency or other entity whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity shall be deemed to refer to the officer, agency or other entity to which the responsibility is transferred.~~

~~7. As used in this section, "Nevada Energy Commission" means the Nevada Energy Commission created by section 4 of this act.~~**] (Deleted by amendment.)**

Sec. 107. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any

other obligations for which revenue from the tax from which the exemption would be granted was pledged.

Sec. 108. Notwithstanding the provisions of section 28 of this act, a person is not entitled to any partial abatement of taxes pursuant to that section after June 30, ~~[2019.]~~ **2049.**

Sec. 109. ~~[1. The tax imposed by section 85 of this act does not apply to any electricity generated before January 1, 2010.~~

~~2. Notwithstanding any provision of sections 73 to 98, inclusive, of this act to the contrary:~~

~~(a) The return and remittance required by subsection 2 of section 85 of this act for the calendar quarter beginning on January 1, 2010, are due on or after July 1, 2010, and on or before July 31, 2010.~~

~~(b) The Department of Taxation shall not enforce the provisions of subsection 2 of section 85 of this act before July 1, 2010.]~~ **(Deleted by amendment.)**

Sec. 110. 1. This section and sections **1 to 1.8, inclusive, 27.5, 28, 28.5,** 107, 108 and 109 of this act become effective ~~[upon passage and approval.~~

~~2. Section]~~ **on July 1, 2009**.

2. Sections 1.85, 1.9 and 1.95 of this act become effective on July 1, 2009, if and only if no other bill passed during the 2009 Legislative Session becomes effective that provides for the appointment, powers and duties of the Nevada Energy Commissioner.

3. Sections 28 **and 28.5** of this act ~~[becomes effective on July 1, 2009, and expires]~~ **expire** by limitation on June 30, ~~[2019.~~

~~3. Sections 72 to 104, inclusive, of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On January 1, 2010, for all other purposes.~~

~~4. Sections 1 to 27, inclusive, 29 to 62, inclusive, 64 to 71, inclusive, 105 and 106 of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On July 1, 2010, for all other purposes.~~

~~5. Section 63 of this act becomes effective on January 1, 2011.~~

~~6. Sections 41 to 56, inclusive, of this act expire by limitation on June 30, 2011.]~~ **2049.**

~~[LEADLINES OF REPEALED SECTIONS]~~

~~[701.050 "Director" defined.~~

~~701.090 "Task Force" defined.~~

~~701.150—Creation; appointment of Director; employment of personnel by Director; classification of Director and personnel; conflict of interest prohibited.~~

~~701.350—Creation; appointment of members; qualifications for members; terms of members; vacancies; requirements and restrictions concerning members who are public officers or employees.~~

~~701.360—Selection and terms of Chairman and Vice Chairman; vacancies; quorum; meetings; members serve without compensation; per diem and travel expenses; Consumer's Advocate to provide support and assistance.~~

~~701B.050—"Commission" defined.~~

~~701B.170—"Task Force" defined.~~

~~701B.450—"Commission" defined. Effective through June 30, 2011.~~

~~701B.530—"Task Force" defined. Effective through June 30, 2011.~~

~~701B.730—"Commission" defined. Effective through June 30, 2011.~~

~~701B.770—"Task Force" defined. Effective through June 30, 2011.~~**]**

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 263.

Bill read third time.

The following amendment was proposed by Assemblywoman Koivisto:

Amendment No. 870.

AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. **Sections 1 and 3** of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not less than **[**~~90 days or~~**]** **5 days or** more than **[**~~100~~**]** **15** days before the day of the **[**~~general city~~**]** **statewide primary** election.

Sections 2 and 4 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear.

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

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than [90 days or] 5 days or more than [100] 15 days before the day of the [general election.] primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than [90 days or] 5 days or more than [100] 15 days before the day of the [general election.] primary election held pursuant to the provisions of NRS 293.175. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 4. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ ***before the close of filing and any applicable period for withdrawal of candidacy,*** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

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

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblymen Kirkpatrick, Atkinson, and Leslie:

Amendment No. 891.

SUMMARY—Amends the Charters of the Cities of Carlin**, Reno** and Wells to revise provisions governing municipal elections. (BDR S-1003)

AN ACT relating to city elections; amending the Charters of the Cities of Carlin and Wells to specify the dates for filing a declaration of candidacy to become a candidate in the general city election; amending the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot; **creating a sixth ward for the City of Reno; requiring that the candidates for Councilman in the City of Reno be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The existing Charters of the Cities of Carlin and Wells provide that a Mayor and the Councilmen of the respective cities are elected at a general city election which occurs on the same day as the statewide general election. **Sections 1 and ~~[3]~~ 7** of this bill amend the Charters of the Cities of Carlin and Wells to specify that a person seeking to appear on the ballot at the general city election in one of those cities must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general city election. **(Carlin City Charter § 5.015; Wells City Charter § 5.015)**

Sections 2 and ~~[4]~~ 8 of this bill also amend the Charters of the Cities of Carlin and Wells to specify the appropriate appearance of names on an election ballot, including details on how the names of candidates with similar surnames are to appear. **(Carlin City Charger § 5.040; Wells City Charter § 5.040)**

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Councilman. A sixth Councilman represents the City at large. (Reno City Charter §§ 1.050, 2.010) Section 3 of this bill increases the number of wards in Reno to six, and sections 4-6 of this bill replace the office of Councilman at large with the office of Councilman to represent the newly created sixth ward. (Reno City Charter §§ 1.050, 2.010, 5.010, 5.020)

The existing Charter of the City of Reno provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Reno City Charter, §§ 5.010, 5.020) Sections 5 and 6 of this bill amend the Charter of the City of Reno to provide that all candidates for Councilman must be voted on in a general election by only the registered voters of the ward that a candidate seeks to represent.

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

Section 1. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 2. The Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new section to be designated as section 5.040, immediately following section 5.030, to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible before the close of filing and any applicable period for withdrawal of candidacy, must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 3. **Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:**

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~[five]~~ ***six*** wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 4. **Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:**

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman ***must be a resident of the ward from which he is*** elected ~~[from a ward]~~ ***and*** must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~[and one Councilman represent]~~ ***represents*** the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 5. **Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:**

Sec. 5.010 General elections.

1. ~~[On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.~~

~~2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~3.]~~ On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[4.]~~ ***2.*** On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.

~~[5.]~~ ***3.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.

~~[6.]~~ ***4.*** On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected **,** ~~[by the qualified voters of the City,]~~ at the general election, Councilmen from the first, third and fifth wards and one Councilman at large, all of whom hold office for a term of 4 years and until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 5.***

5. On the Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at the general election, Councilmen from the first, third, fifth and sixth wards, all of

whom hold office for a term of 4 years and until their successors have been elected and qualified.

6. In an election held pursuant to this section:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the City at large.

Sec. 6. **Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:**

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~[Candidates]~~ ***A candidate*** for ***the office of City*** Councilman ~~[who represent a specific ward]~~ must be voted upon only by the registered voters of ~~[that ward.]~~ ***the ward that he seeks to represent.***

(c) Candidates for Mayor ~~[and Councilman at large]~~ ***, Municipal Judge and City Attorney*** must be voted upon by ~~[all]~~ ***the*** registered voters of the City.~~[.~~

~~4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.]~~ ***at large.***

~~[Sec. 3.]~~ ***Sec. 7.*** The Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 457, is hereby amended by adding thereto a new section to be designated as section 5.015, immediately following section 5.010, to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk not less than 90 days or more than 100 days before the day of the general election. The City Clerk shall charge and collect from the candidate and the candidate must pay to the

City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

~~[Sec. 4.]~~ ***Sec. 8.*** Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible ~~[,]~~ ***before the close of filing and any applicable period for withdrawal of candidacy,*** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 9. **The City Council of the City of Reno shall, not later than July 1, 2009, establish the boundaries of the ward created by the amendatory provisions of section 3 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 3 of this act.**

Sec. 10. **Notwithstanding the amendatory provisions of section 4 of this act, a Councilman of the City of Reno who holds office on July 1, 2009, shall:**

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 3 of this act for the remainder of his term of office.

~~[Sec. 5.]~~ ***Sec. 11.*** **1.** This **section and sections 1, 2, 7 and 8 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 3 to 6, inclusive, and 9 and 10 of this act become effective:

(a) Upon passage and approval for the purpose of passing any ordinances and performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2009, for all other purposes.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 295.
Bill read third time.
Roll call on Senate Bill No. 295:
YEAS—37.
NAYS—Christensen, Kihuen, Munford—3.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 295 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 239.
Bill read third time.
Conflict of interest declared by Assemblyman Ohrenschall.
Roll call on Senate Bill No. 239:
YEAS—38.
NAYS—None.
NOT VOTING—Christensen, Ohrenschall—2.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 239 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 269.
Bill read third time.
Potential conflict of interest declared by Assemblymen Hardy and Gansert.
Roll call on Senate Bill No. 269:
YEAS—40.
NAYS—None.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 269 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 175.
Bill read third time.
Remarks by Assemblyman Settelmeyer.
Roll call on Senate Bill No. 175:
YEAS—27.
NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 175 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 190.
Bill read third time.

Roll call on Senate Bill No. 190:
YEAS—40.
NAYS—None.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 213.
Bill read third time.
Roll call on Senate Bill No. 213:
YEAS—28.
NAYS—Christensen, Cobb, Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—12.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 213 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 522 and Senate Bill No. 263.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 522.
Bill read third time.
Roll call on Assembly Bill No. 522:
YEAS—39.
NAYS—Hambrick.
EXCUSED—Grady, Mortenson—2.
Assembly Bill No. 522 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 263.
Bill read third time.
Roll call on Senate Bill No. 263:
YEAS—31.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Woodbury—9.
EXCUSED—Grady, Mortenson—2.
Senate Bill No. 263 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Madam Speaker:

The Conference Committee concerning Assembly Bill No. 463, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 758 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

DEBBIE SMITH	VALERIE WIENER
APRIL MASTROLUCA	JOYCE WOODHOUSE
LYNN STEWART	WARREN HARDY
Assembly Conference Committee	*Senate Conference Committee*

Conference Amendment No. CA1.

SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)

AN ACT relating to governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1** requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. **Section 1** also requires that contracts with temporary employment services be awarded by open competitive bidding. **Section 1** further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are ~~[solely]~~ federally funded. **Section 2.5** of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget

process by a state agency. **Section 2.7** of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State;

(c) Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or

(d) The person is employed by the Department of Transportation for a transportation project that is ~~*[solely]*~~ ***federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,***

↪ unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection 7, a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission, school district or institution;

(b) The purpose for which the board, commission, school district or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission, school district or institution; and

(d) The length of time each consultant has been employed by the board, commission, school district or institution.

7. The provisions of subsections 1 to 5, inclusive, do not apply to the:

(a) Nevada System of Higher Education or a board or commission of this State.

(b) Employment of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~[solely]~~ federally funded.

8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.

Sec. 2. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~[.]~~ ***and section 1 of this act.*** In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes

to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~[and]~~

(b) ***Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and***

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

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

Assemblywoman Kirkpatrick moved that the Assembly adopt the report of the first Conference Committee concerning Assembly Bill No. 463.

Motion carried by a constitutional majority.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:48 p.m.

ASSEMBLY IN SESSION

At 8:16 p.m.

Madam Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Dondero Loop, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 389.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 273, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 304, Amendment No. 907, and respectfully requests your honorable body to concur in said amendment.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

SECOND READING AND AMENDMENT

Senate Bill No. 273.

Bill read second time.

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

Amendment No. 796.

AN ACT relating to health; providing for the scope of regulation of certain activities related to nonembryonic cells; providing that nothing in this act shall be construed to indicate the status under federal law of the activities authorized under this act; providing for cell or tissue banks; providing for the administration of nonembryonic cells to a person; providing for the compounding of drugs, medicines or health products using nonembryonic cells; providing for the importation and administration of nonembryonic cells under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill provides that no state or local entity may regulate the activities related to nonembryonic cells authorized in this bill except as otherwise provided in certain portions of this bill.

Section 7 of this bill provides that nothing in this bill shall be construed to indicate the status under federal law of the activities authorized under this bill.

Section 8 of this bill authorizes cell or tissue banks to operate in this State.

Section 9 of this bill authorizes the administration, whether assisted or not, of nonembryonic cells to a person.

Section 10 of this bill authorizes the compounding of a drug, medicine or health product using nonembryonic cells.

Section 11 of this bill authorizes the importation and administration, whether assisted or not, of nonembryonic cells under certain circumstances.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto 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. ***"Allogeneic" means originating from the body of another person.***

Sec. 4. ***"Autologous" means originating from within a person's own body.***

Sec. 5. ***"Nonembryonic cells" means autologous or allogeneic cellular material, including, without limitation, stem cells and immune cells, that:***

1. Has not been isolated or obtained directly from human embryos; and

2. May have been or may be combined with one or more:

(a) Naturally occurring biomaterials; or

(b) Materials approved or cleared for any purpose by the United States Food and Drug Administration or other applicable agency or authority.

Sec. 6. ***1. Notwithstanding any other provision of law, any department, commission, board or agency of a state or local government, including, without limitation, a state professional board, shall not:***

~~*[1.]*~~ ***(a) Except as otherwise provided in subsection 2 of section 9 of this act and subsection 2 of section 11 of this act, regulate the activities authorized by sections 2 to 11, inclusive, of this act; or***

~~*[2.]*~~ ***(b) Take disciplinary action or impose civil or criminal liabilities or penalties against a person for engaging in an activity authorized by sections 2 to 11, inclusive, of this act.***

2. This section does not:

(a) Absolve a professional licensing board of the duty to regulate licensees or otherwise prohibit or limit the powers and duties of a licensing board to regulate the procedures used to administer the nonembryonic stem cells.

(b) Absolve any person of civil or criminal liability or penalty for failure to use the reasonable care, skill or knowledge ordinarily used in rendering medical services under similar circumstances.

Sec. 7. ***Nothing in sections 2 to 11, inclusive, of this act shall be construed to indicate the status of any of the activities authorized pursuant to sections 2 to 11, inclusive, of this act as regards federal law.***

Sec. 8. ***1. Notwithstanding any other provision of law, a cell or tissue bank may operate in this State.***

2. As used in this section, "cell or tissue bank" means a facility that stores nonembryonic cells or tissues, or both.

Sec. 9. ***Notwithstanding any other provision of law, nonembryonic cells may be administered to a person by:***

1. That person himself; or

2. A person licensed or authorized in this State to administer or assist in the administration of medicine or health care to others if the mode of delivery used by the person to deliver the nonembryonic cells is a mode of delivery permitted under the person's license or authorization.

Sec. 10. ***Notwithstanding any other provision of law:***

1. A drug, medicine or health product may be compounded using as an ingredient, by itself or with other ingredients, nonembryonic cells; and

2. A pharmacy that compounds a drug, medicine or health product described in subsection 1 may be owned or operated, or both, in this State.

Sec. 11. ***Notwithstanding any other provision of law:***

1. A person may import into this State any compound, drug or other treatment containing nonembryonic cells if:

(a) The compound, drug or other treatment was obtained without violating the laws of the jurisdiction in which it was obtained; and

(b) The compound, drug or other treatment is for personal use.

2. A person who is licensed or authorized in this State to administer or assist in the administration of medicine or health care to others may administer or assist in the administration of, to a person described in subsection 1, the imported compound, drug or other treatment if the mode of delivery used to deliver the nonembryonic cells by the person who is licensed or authorized in this State is a mode of delivery permitted under the person's license or authorization.

Sec. 12. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bill No. 273.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bill No. 273 be declared emergency measure under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 119 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that the action whereby Senate Bill No. 354 was passed be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 119.

Bill read third time.

The following amendment was proposed by Assemblyman Settelmeyer:

Amendment No. 936.

AN ACT relating to professions; revising provisions governing the regulation of massage therapists by the Board of Massage Therapists; prohibiting certain misleading and deceptive practices relating to massage therapy; revising provisions governing the discipline of massage therapists; authorizing the Board to issue administrative citations and to impose administrative fines for certain violations; revising provisions governing the temporary suspension of licenses of massage therapists; requiring ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to provide certain records to the Board or its Executive Director upon request; authorizing ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to redact certain confidential information from records provided to the Board or its Executive Director; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, massage therapists must be licensed by the Board of Massage Therapists. (Chapter 640C of NRS) **Sections 2, 3 and 11** of this bill require a massage therapist to display his original license, not a copy or replica, at each location where he practices massage therapy. (NRS 640C.450) **Section 3** prohibits a person from: (1) forging or counterfeiting a license; (2) altering, copying or replicating a license for the purpose of aiding or abetting an unlawful act; or (3) using or displaying a license that has been forged or counterfeited or has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act.

Sections 4 and 16 of this bill prohibit an unlicensed person from advertising as a massage therapist and prohibit a licensed person from using any false or misleading statements in advertising. (NRS 640C.910) **Sections 4 and 16** also prohibit an unlicensed person from having his name listed in a telephone directory under a heading such as "massage" which indicates or implies that he is licensed or qualified to practice massage therapy. **Sections 4 and 16** also authorize the Board to issue an order to cease and desist from engaging in unlawful advertising. **Sections 4, 18 and 19** of this bill contain provisions whereby the Board can have telephone numbers for any type of telephone, messaging or paging service disconnected because they are included in unlawful advertising. (NRS 703.175, 707.355)

Existing law authorizes the Board to take disciplinary action by imposing administrative fines. (NRS 640C.710) **Section 14** of this bill provides that the

Board may impose an administrative fine of not more than $5,000 for each violation, unless a greater fine is required pursuant to **section 5** of this bill. **Section 5** requires the Board to impose, based on the number of violations, increasing administrative fines of not more than $10,000 against a licensee who ~~[has engaged in or solicited sexual activity during a massage therapy session or]~~ has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during a massage therapy session.

~~[Section 7 of this bill authorizes the Board to issue administrative citations for any statutory or regulatory violations relating to massage therapy and provides that an unlicensed person who fails to comply with a citation is guilty of a misdemeanor. A citation may include an order to: (1) pay an administrative fine; (2) correct a condition resulting from a violation; and (3) reimburse the Board for expenses incurred to investigate the violation. Section 8 of this bill allows a person to request a hearing before the Board to contest an administrative citation.]~~

Existing law provides for the temporary suspension of a massage therapy license without a prior hearing for a period of 15 or 30 days under certain exigent circumstances. (NRS 640C.720) Generally, procedural due process entitles a licensee to a hearing before his license is suspended. (*Barry v. Barchi*, 443 U.S. 55, 99 S. Ct. 2642 (1979); U.S. Const. Amend. XIV, § 1; Nev. Const. Art. 1, § 8) However, when exigent circumstances justify immediate action, a statute may provide for the temporary suspension of a license without a prior hearing if the statute requires a post-suspension administrative review where a hearing is held and a final decision is rendered as promptly as is practicable. (*Federal Deposit Insurance Corporation v. Mallen*, 486 U.S. 230, 108 S. Ct. 1780 (1988); *Sierra Life Insurance Company v. Rottman*, 95 Nev. 654 (1979)) **Section 15** of this bill: (1) provides for the temporary suspension of a massage therapy license without a prior hearing for a period not to exceed ~~[30]~~ **15 business** days under certain exigent circumstances; (2) authorizes the licensee to request a post-suspension administrative review; and (3) requires the Board to hold a hearing and render a final decision as promptly as is practicable but not later than ~~[30]~~ **10 business** days after the date of the initial suspension. (NRS 640C.720)

Section 15 of this bill also authorizes the Board and its Executive Director to request from ~~[state and local law enforcement agencies]~~ **the appropriate governmental agency or court of competent jurisdiction** records relating to any ~~[charge or citation against]~~ **conviction of** a massage therapist for a crime involving violence, prostitution or any other sexual offense and authorizes those ~~[law enforcement]~~ **governmental** agencies **and courts of competent jurisdiction** to redact from those records certain information which the agencies **or courts** deem confidential. (NRS 640C.720) **Sections 15 and 17** of this bill require ~~[a law enforcement]~~ **the governmental** agency **or court of competent jurisdiction** to provide the requested records as soon as reasonably practicable. (NRS 179A.100) **Section 15** also provides that the

Board and its Executive Director: (1) must maintain the confidentiality of the records; and (2) may use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist.

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

Section 1. Chapter 640C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***1. "Original license" means the actual license which is issued to the licensee by the Board and which is current and valid.***

2. The term does not include any photocopy print, photostat or other replica of such a license.

Sec. 3. ***1. A person shall not:***

(a) Counterfeit or forge or attempt to counterfeit or forge a license to practice massage therapy; or

(b) For the purpose of aiding or abetting an unlawful act:

(1) Alter or attempt to alter a license to practice massage therapy; or

(2) Make or attempt to make any photocopy print, photostat or other replica of a license to practice massage therapy.

2. A person shall not use or display a license to practice massage therapy that:

(a) Is not the original license issued to the person;

(b) Has been counterfeited or forged;

(c) Has been altered, copied or replicated for the purpose of aiding or abetting an unlawful act; or

(d) Has been issued to another person.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 4. ***1. A person shall not advertise as a massage therapist in this State unless the person is licensed to practice massage therapy pursuant to this chapter.***

2. A person licensed to practice massage therapy pursuant to this chapter shall not disseminate, as part of any advertising by the massage therapist, any false or misleading statement or representation of material fact that is intended, directly or indirectly, to induce another person to use the services of the massage therapist.

3. All advertising by a licensed massage therapist must include his name and the name of his company, if applicable. All advertising in a telephone directory or a newspaper must also include the number of his license.

4. A person who violates any provision of subsection 1 or 2 is guilty of a misdemeanor.

5. If, after notice and a hearing as required by law, the Board determines that a person has willfully engaged in advertising in a manner that violates the provisions of this section or NRS 640C.910, the Board

may, in addition to any penalty, punishment or disciplinary action authorized by the provisions of this chapter, order the person to cease and desist the unlawful advertising. The provisions of this subsection do not apply to any person whose license has been expired for less than 90 days or is temporarily suspended.

6. The Board may order any person convicted of a crime involving violence, prostitution or any other sexual offense to cause any telephone number included in the advertising to be disconnected from service. If the Board orders the person to cause any telephone number to be disconnected from service and the person fails to comply within 5 days after the date on which he is served with the order, the Board may:

(a) If the provider is regulated by the Public Utilities Commission of Nevada, request the Commission to order the provider to disconnect the telephone number from service pursuant to NRS 703.175 and 707.355; or

(b) If the provider is not regulated by the Public Utilities Commission of Nevada, request the provider to disconnect the telephone number from service and inform the provider that the request is made pursuant to this section. Upon receiving such a request, the provider shall take such action as is necessary to disconnect the telephone number from service.

7. A provider shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to this section; or

(b) Provide or offer to provide a message that includes a new telephone number for the person whose telephone number was disconnected from service pursuant to this section.

8. If a provider complies in good faith with a request to disconnect a telephone number from service pursuant to this section, such good-faith compliance shall constitute a complete defense to any civil or criminal action brought against the provider arising from the disconnection or termination of service.

9. As used in this section:

(a) "Advertising" means the intentional placement or issuance of any sign, card or device, or the permitting or allowing of any sign or marking on a motor vehicle, in any building, structure, newspaper, magazine or airway transmission, on the Internet or in any directory under the listing of "massage therapist" or "massage."

(b) "Provider" means a provider of any type of telephone, messaging or paging service.

(c) "Provider of messaging or paging service" means an entity that provides any type of messaging or paging service to any type of communication device.

(d) "Provider of telephone service" has the meaning ascribed to it in NRS 707.355.

(e) "Telephone number" means any sequence of numbers or characters, or both, used by a provider to provide any type of telephone, messaging or paging service.

Sec. 5. ***1. In addition to any other actions authorized by NRS 640C.710, if, after notice and a hearing as required by law, the Board determines that a licensee*** ~~*[has engaged in or solicited sexual activity during the course of practicing massage on a person or]*~~ ***has been convicted of a crime involving violence, prostitution or any other sexual offense that occurred during the course of practicing massage on a person, the Board shall:***

(a) For a first violation, impose an administrative fine of not less than $100 and not more than $1,000;

(b) For a second violation, impose an administrative fine of not less than $250 and not more than $5,000; and

(c) For a third violation and for each additional violation, impose an administrative fine of not less than $500 and not more than $10,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

Sec. 6. ***The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.***

Sec. 7. ~~*[1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has committed an act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person. A citation issued pursuant to this section may include, without limitation:*~~

~~*(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;*~~

~~*(b) An order to pay an administrative fine for each violation; and*~~

~~*(c) An order to reimburse the Board for the amount of the expenses incurred to investigate each violation.*~~

~~*2. If the citation includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must:*~~

~~*(a) State the time permitted for compliance, which must not be less than 15 business days after the date on which the citation is received by the person; and*~~

~~*(b) Describe, in specific detail, the action required to be taken.*~~

~~*3. If the citation is issued to a licensee and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine must not exceed the maximum amount authorized by NRS 640C.710 or section 5 of this act, as appropriate for each violation.*~~

~~*4. If the citation is issued to an unlicensed person and includes an order to pay an administrative fine for one or more violations, the amount of the administrative fine:*~~

~~*(a) For a first violation, must not be less than $100 and must not be more than $1,000;*~~

~~*(b) For a second violation, must not be less than $250 and must not be more than $5,000; and*~~

~~*(c) For a third violation and for each additional violation, must not be less than $500 and must not be more than $10,000.*~~

~~*5. The sanctions authorized by this section are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.*~~

~~*6. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section or make satisfactory payment arrangements, as approved by the Board, within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.]~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. If a person is issued a written administrative citation pursuant to section 7 of this act, the person may request a hearing before the Board to contest the citation by filing a written request with the Board:*~~

~~*(a) Not later than 15 business days after the date on which the citation is received by the person; or*~~

~~*(b) If the Board, for good cause shown, extends the time allowed to file a written request for a hearing to contest the citation, on or before the later date specified by the Board.*~~

~~*2. If the person files a written request for a hearing to contest the citation within the time allowed pursuant to this section:*~~

~~*(a) The Board shall provide notice of and conduct the hearing in the same manner as other disciplinary proceedings; and*~~

~~*(b) At the hearing, the person may contest, without limitation:*~~

~~*(1) The facts forming the basis for the determination that the person has committed an act which constitutes a violation of this chapter or the regulations of the Board;*~~

~~*(2) The time allowed to take any corrective action ordered;*~~

~~*(3) The amount of any administrative fine ordered;*~~

~~*(4) The amount of any order to reimburse the Board for the expenses incurred to investigate the violation; and*~~

~~*(5) Whether any corrective action described in the citation is reasonable.*~~

~~*3. If the person does not file a written request for a hearing to contest the citation within the time allowed pursuant to this section, the citation shall be deemed a final order of the Board.*~~

~~*4. For the purposes of this section, a citation shall be deemed to have been received by a person:*~~

~~*(a) On the date on which the citation is personally delivered to the person; or*~~

~~*(b) If the citation is mailed, 3 days after the date on which the citation is mailed by certified mail to the last known business or residential address of the person.]~~* **(Deleted by amendment.)**

Sec. 9. NRS 640C.020 is hereby amended to read as follows:

640C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 640C.030 to 640C.060, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. ~~[~~NRS 640C.320 is hereby amended to read as follows:~~

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:~~

~~1. Establish the requirements for continuing education for the renewal of a license;~~

~~2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;~~

~~3. Establish the requirements for the approval of an instructor of a course of continuing education;~~

~~4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;~~

~~5. Except as otherwise provided in NRS 622.090, prescribe the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; [~~and~~]~~

~~6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant~~ **[**.**]** ***; and***

~~*7. Prescribe the form of a written administrative citation pursuant to section 7 of this act.]*~~ **(Deleted by amendment.)**

Sec. 11. NRS 640C.450 is hereby amended to read as follows:

640C.450 ***1.*** Each licensee shall display his ***original*** license in a conspicuous manner at each location where he practices massage therapy. ***If a licensee practices massage therapy in more than one place, he must carry his original license with him and display it wherever he is actually working.***

2. A licensee shall obtain a replacement of his original license from the Board if his:

(a) Original license is destroyed, misplaced or mutilated; or

(b) Name or address as printed on the original license has changed.

3. To obtain a replacement license, the licensee must:

(a) File an affidavit with the Board, on the form prescribed by the Board, which states that his original license was destroyed, misplaced or mutilated or that his name or address as printed on the original license has changed; and

(b) Pay the fee prescribed by the Board pursuant to NRS 640C.520.

Sec. 12. NRS 640C.520 is hereby amended to read as follows:

640C.520 1. The Board shall establish a schedule of fees and charges. The fees for the following items must not exceed the following amounts:

An examination established by the Board pursuant to this chapter	$600
An application for a license	300
An application for a license without an examination	300
A background check of an applicant	600
The issuance of a license	400
The renewal of a license	200
The restoration of an expired license	500
The reinstatement of a suspended or revoked license	500
The issuance of a ~~[duplicate]~~ ***replacement*** license	75
The restoration of an inactive license	300

2. The total fees collected by the Board pursuant to this section must not exceed the amount of money necessary for the operation of the Board and for the maintenance of an adequate reserve.

Sec. 13. NRS 640C.700 is hereby amended to read as follows:

640C.700 The Board may refuse to issue a license to an applicant, or may initiate disciplinary action against a holder of a license, if the applicant or holder of the license:

1. Has submitted false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government;

2. Has violated any provision of this chapter or any regulation adopted pursuant thereto;

3. Has been convicted of a crime involving violence, prostitution or any other sexual offense, a crime involving any type of larceny, a crime relating to a controlled substance, a crime involving any federal or state law or regulation relating to massage therapy or a substantially similar business, or a crime involving moral turpitude within the immediately preceding 10 years ***;*** ~~[.]~~

4. Has engaged in or solicited sexual activity during the course of practicing massage on a person, with or without the consent of the person, including, without limitation, if the applicant or holder of the license:

(a) Made sexual advances toward the person;

(b) Requested sexual favors from the person; or

(c) Massaged, touched or applied any instrument to the breasts of the person, unless the person has signed a written consent form provided by the Board;

5. Has habitually abused alcohol or is addicted to a controlled substance;

6. Is, in the judgment of the Board, guilty of gross negligence in his practice of massage therapy;

7. Is determined by the Board to be professionally incompetent to engage in the practice of massage therapy;

8. Has failed to provide information requested by the Board within 60 days after he received the request;

9. Has, in the judgment of the Board, engaged in unethical or unprofessional conduct as it relates to the practice of massage therapy;

10. Has been disciplined in another state, a territory or possession of the United States or the District of Columbia for conduct that would be a violation of the provisions of this chapter or any regulations adopted pursuant thereto if the conduct were committed in this State;

11. Has solicited or received compensation for services relating to the practice of massage therapy that he did not provide;

12. If the holder of the license is on probation, has violated the terms of his probation; ~~[or]~~

13. Has engaged in false, deceptive or misleading advertising, including, without limitation, falsely, deceptively or misleadingly advertising that he has received training in a specialty technique of massage for which he has not received training, practicing massage therapy under an assumed name and impersonating a licensed massage therapist ~~[.]~~ ***; or***

14. Has ~~*[failed to comply with a written administrative citation issued pursuant to section 7 of this act within the time permitted for compliance set forth in the citation or, if a hearing is held pursuant to section 8 of this act, within 15 business days after the hearing; or*~~

~~*15. Except as otherwise provided in subsection 14, has]*~~ ***failed to pay or make arrangements to pay, as approved by the Board, an administrative fine imposed pursuant to this chapter within 60 days after:***

(a) Receiving notice of the imposition of the fine; or

(b) The final administrative or judicial decision affirming the imposition of the fine,

↪ whichever occurs later.

Sec. 14. NRS 640C.710 is hereby amended to read as follows:

640C.710 1. If, after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:

(a) Place the applicant or holder of the license on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or holder of the license a public reprimand;

(c) Refuse to issue, renew, reinstate or restore the license;

(d) Suspend or revoke the license;

(e) ~~[Impose]~~ ***Except as otherwise provided in section 5 of this act, impose*** an administrative fine of not more than ~~[$1,000 per day for each day for which the Board determines that a violation occurred;]~~ ***$5,000 for each violation;***

(f) Require the applicant or holder of the license to pay the costs incurred by the Board to conduct the investigation and hearing; or

(g) Impose any combination of actions set forth in paragraphs (a) to (f), inclusive.

2. The order of the Board may contain such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 15. NRS 640C.720 is hereby amended to read as follows:

640C.720 Notwithstanding any other statute to the contrary:

1. If the Board finds ***, based upon evidence in its possession,*** that immediate action is necessary to protect the health, safety or welfare of the public, the Board may, upon providing notice to the massage therapist, temporarily suspend his license ***without a prior hearing*** for a period not to exceed ~~[30 days. For good cause,]~~ ~~*[30]*~~ ***15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than*** ~~*[20]*~~ ***10 business days after the date on which the massage therapist receives notice of the temporary suspension. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than ~~*[30]*~~ ***15 business days after the date on which the Board*** ~~*[provides notice of the temporary suspension.]*~~ ***receives the written request. After holding such a hearing,*** the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 30 days after the date on which the Board ~~[notifies the massage therapist]~~ ***provides notice*** of the ***initial*** temporary suspension. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to***

protect the health, safety or welfare of the public pending proceedings for disciplinary action.

2. If a massage therapist is charged with or cited for a crime involving violence, prostitution or any other sexual offense, the appropriate law enforcement agency shall report the charge or citation to the Executive Director ~~[.]~~ ***of the Board.*** Upon receiving such a report, the Executive Director shall immediately issue ***by certified mail to the massage therapist*** a cease and desist order temporarily suspending the license of the massage therapist ~~[.]~~ ***without a prior hearing.*** The temporary suspension of the license is effective immediately ~~[upon issuance]~~ ***after the massage therapist receives notice*** of the cease and desist order and must not exceed ~~[15 days. For good cause,]~~ ~~*[60]*~~ ***15 business days. The massage therapist may file a written request for a hearing to challenge the necessity of the temporary suspension. The written request must be filed not later than*** ~~*[20]*~~ ***10 business days after the date on which the Executive Director mails the cease and desist order. If the massage therapist:***

(a) Files a timely written request for a hearing, the Board shall extend the temporary suspension until a hearing is held. The Board shall hold a hearing and render a final decision regarding the necessity of the temporary suspension as promptly as is practicable but not later than ~~*[60]*~~ ***15 business days after the date on which the*** ~~*[Executive Director mails the cease and desist order.]*~~ ***Board receives the written request. After holding such a hearing,*** the Board may extend the period of the temporary suspension if the Board ~~[deems]~~ ***finds, for good cause shown, that*** such action ~~[to be]~~ ***is*** necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action. ~~[In any such case, a]~~

(b) Does not file a timely written request for a hearing and the Board wants to consider extending the period of the temporary suspension, the Board shall schedule a hearing and notify the massage therapist immediately by certified mail of the date of the hearing. The hearing must be held and a final decision rendered regarding whether to extend the period of the temporary suspension ***as promptly as is practicable but*** not later than 15 ~~*[60]*~~ ***business*** days after the date on which the Executive Director ~~[issues]~~ ***mails*** the cease and desist order. ***After holding such a hearing, the Board may extend the period of the temporary suspension if the Board finds, for good cause shown, that such action is necessary to protect the health, safety or welfare of the public pending proceedings for disciplinary action.***

3. If the Board or the Executive Director issues an order temporarily suspending the license of a massage therapist pending proceedings for disciplinary action, a court shall not stay that order.

4. When conducting an investigation of a massage therapist pursuant to this chapter, the Board or the Executive Director may request from ~~*[state and local law enforcement agencies]*~~ ***the appropriate governmental agency or court of competent jurisdiction records relating to any*** ~~*[charge or citation against]*~~ ***conviction of the massage therapist for a crime involving***

violence, prostitution or any other sexual offense. Such records include, without limitation, a record of criminal history as defined in NRS 179A.070.

5. Upon receiving a request from the Board or the Executive Director pursuant to subsection 4, the ~~[law enforcement]~~ governmental agency or court of competent jurisdiction shall provide the requested records to the Board or the Executive Director as soon as reasonably practicable. The ~~[law enforcement]~~ governmental agency or court of competent jurisdiction may redact from the records produced pursuant to this subsection any ~~[descriptions of techniques and strategies and other]~~ information relating to ~~[law enforcement that are]~~ the agency or court that is deemed confidential by the agency ~~[.]~~ or court. Upon receiving the records from the ~~[law enforcement agency,]~~ governmental agency or court, the Board and the Executive Director:

(a) Shall maintain the confidentiality of the records if such confidentiality is required by federal or state law; and

(b) May use the records for the sole and limited purpose of determining whether to take disciplinary action against the massage therapist pursuant to this chapter.

6. For purposes of this section, a person is deemed to have notice of a temporary suspension of his license:

(a) On the date on which the notice is personally delivered to the person; or

(b) If the notice is mailed, 3 days after the date on which the notice is mailed by certified mail to the last known business or residential address of the person.

Sec. 16. NRS 640C.910 is hereby amended to read as follows:

640C.910 1. If a person is not licensed to practice massage therapy pursuant to this chapter, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

2. If a person's license to practice massage therapy pursuant to this chapter has expired or has been suspended or revoked by the Board, the person shall not:

(a) Engage in the practice of massage therapy; ~~[or]~~

(b) Use in connection with his name the words or letters "L.M.T.," "licensed massage therapist," "licensed massage technician," "M.T.," "massage technician" or "massage therapist," or any other letters, words or insignia indicating or implying that he is licensed to practice massage therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "massage" or represent himself as licensed or qualified to engage in the practice of massage therapy ~~[.]~~ ***; or***

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his name or the name of his company under the heading "massage," "massage therapy," "massage therapist," "massage technician" or any other term that indicates or implies that he is licensed or qualified to practice massage therapy.

3. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 17. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written

consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the notice on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history or his attorney of record when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee, or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative.

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 18. NRS 703.175 is hereby amended to read as follows:

703.175 1. Upon receiving a request ***to disconnect a telephone number*** from the State Contractors' Board ~~[to disconnect a telephone number]~~ pursuant to NRS 624.720, ***the Board of Massage Therapists pursuant to***

section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758, the Commission shall issue an order to the appropriate provider of telephone service to disconnect the telephone number.

2. Compliance in good faith by a provider of telephone service with an order of the Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the provider of telephone service arising from the termination of service.

3. As used in this section, "provider of telephone service" has the meaning ascribed to it in NRS 707.355.

Sec. 19. NRS 707.355 is hereby amended to read as follows:

707.355 1. Each provider of telephone service in this State shall, when notified that:

(a) A court has ordered the disconnection of a telephone number pursuant to NRS 706.2855; or

(b) The Public Utilities Commission of Nevada has ordered the disconnection of a telephone number pursuant to NRS ~~[624.720 and]~~ 703.175, ***after receiving a request to disconnect the telephone number from the State Contractors' Board pursuant to NRS 624.720, the Board of Massage Therapists pursuant to section 4 of this act or the Nevada Transportation Authority pursuant to NRS 706.758,***

➥ take such action as is necessary to carry out the order of the court or the Public Utilities Commission of Nevada.

2. A provider of telephone service shall not:

(a) Forward or offer to forward the telephone calls of a telephone number disconnected from service pursuant to the provisions of this section; or

(b) Provide or offer to provide a recorded message that includes the new telephone number for a business whose telephone number was disconnected from service pursuant to the provisions of this section.

3. As used in this section, "provider of telephone service" includes, but is not limited to:

(a) A public utility furnishing telephone service.

(b) A provider of cellular or other service to a telephone that is installed in a vehicle or is otherwise portable.

Assemblyman Settelmeyer moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 273.

Bill read third time.

Roll call on Senate Bill No. 273:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

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

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 355 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 355.

Bill read third time.

Roll call on Senate Bill No. 355:

YEAS—30.

NAYS—Aizley, Carpenter, Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—10.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 355 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

GENERAL FILE AND THIRD READING

Senate Bill No. 354.

Bill read third time.

The following amendment was proposed by Assemblymen Kirkpatrick and Oceguera:

Amendment No. 938.

SUMMARY—Revises provisions governing land use ~~[decisions.]~~ **planning.** (BDR 22-235)

AN ACT relating to land use planning; revising provisions relating to the appeal of land use decisions; **revising provisions relating to the designation of gaming enterprise districts;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of each city and county is required to adopt an ordinance providing that an aggrieved person may appeal the decision of a planning commission, board of adjustment, hearing examiner or other similar official to the governing body. (NRS 278.3195) A person who is aggrieved by a decision of the governing body concerning that appeal may then appeal the decision of the governing body to the district court by filing a petition for judicial review. ~~[This]~~ **Section 1 of this** bill authorizes an aggrieved person to appeal the decision of a governing body that considered a recommendation of a planning commission, board of adjustment, hearing examiner or other similar official or a decision of a governing body which was made without the necessity of a decision or recommendation by a planning commission, board of adjustment, hearing examiner or other similar

official. Solely within the confines of a county whose population is 400,000 or more (currently Clark County), ~~[this bill]~~ **section 1** also provides that, for the purpose of determining whether a person who is seeking judicial review of a decision of a governing body is an "aggrieved person" who may seek such judicial review of the decision: (1) the person shall be deemed not to be aggrieved unless the person appeared before the governing body, planning commission, board of adjustment, hearing examiner or other similar official on the matter which is the subject of the decision and fully set forth his position and the grounds in support of his position; and (2) the person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition which he claims may be detrimental to his property rights or other legal interests.

Existing law provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 400,000 or more (currently Clark County) unless the establishment is located in a gaming enterprise district, which is defined as "an area that has been approved by a county, city or town as suitable for operating an establishment that has been issued a nonrestricted license." (NRS 463.0158, 463.308) If the location of a proposed establishment is within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone, but not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3084. (NRS 463.3082) However, if the location of a proposed establishment is not within the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone and not within an area already designated as a gaming enterprise district, the Commission is prohibited from approving a nonrestricted license for the proposed establishment unless the location of the proposed establishment is first designated a gaming enterprise district pursuant to the criteria set forth in NRS 463.3086, which contains certain additional requirements that are not contained in NRS 463.3084, such as the requirements that: (1) the property line of the proposed establishment must be not less than 500 feet from the property line of a developed residential district and not less than 1,500 feet from the property line of a public school, private school or structure used primarily for religious services or worship; and (2) a three-fourths vote of the governing body of the county, city or town is required for designation of the location as a gaming enterprise district. (NRS 463.3086)

Section 1.5 of this bill revises the boundaries of the Las Vegas Boulevard gaming corridor to include certain new areas. Consequently, if a proposed establishment which is located in a new area of the Las Vegas Boulevard gaming corridor and which is not already in a gaming

enterprise district were to seek to have the location designated as a gaming enterprise district, the determination of whether the location may be designated as a gaming enterprise district would be based upon the criteria set forth in NRS 463.3084, rather than the criteria set forth in NRS 463.3086.

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

Section 1. NRS 278.3195 is hereby amended to read as follows:

278.3195 1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of:

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,

➥ may appeal the decision to the governing body. In a county whose population is 400,000 or more, a person shall be deemed to be aggrieved under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 400,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 400,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 400,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1 ~~[,]~~ and ***is aggrieved by the decision of the governing body;***

(b) Is aggrieved by ~~[the]~~ ***a*** decision of ~~[the]~~ ***a*** governing body ~~[,]~~ ***regarding the use of land in which the governing body considered a recommendation of a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1; or***

(c) Is aggrieved by a decision of the governing body which, pursuant to the procedures contained in the applicable local ordinance, was made without the necessity of a decision or recommendation by a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1,

➥ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.

5. ***In a county whose population is 400,000 or more, for the purpose of determining whether a person who is appealing a decision by filing a petition for judicial review is aggrieved by the decision:***

(a) The person shall be deemed not to be aggrieved by the decision unless the person appeared in person, through an authorized representative or in writing and fully set forth his position and the grounds in support of his position:

(1) Before a person or entity described in paragraphs (a) to (d), inclusive, of subsection 1 that considered the matter, if applicable; and

(2) Before the applicable governing body.

(b) The person shall not be deemed to be aggrieved on the basis that the decision he is appealing may increase or create competition that he claims may be detrimental to his property rights or other legal interests.

6. The provisions of this section do not apply to a petition to designate the location of a proposed establishment as a gaming enterprise district pursuant to NRS 463.3084 or 463.3086.

7. As used in this section, "person" includes ~~[the]~~ ***:***

(a) The Armed Forces of the United States or an official component or representative thereof ~~[.]~~ ***; and***

(b) Any governmental entity.

Sec. 1.5. **NRS 463.3076 is hereby amended to read as follows:**

463.3076 The location of a proposed establishment shall be deemed to be within the Las Vegas Boulevard gaming corridor if the property line of the proposed establishment ~~[:]~~ ***is located within any of the following areas:***

1. ~~[Is within 1,500 feet of the centerline of Las Vegas Boulevard;~~

~~2. Is south of the intersection of Las Vegas Boulevard and that portion of St. Louis Avenue which is designated State Highway No. 605; and~~

~~3. Is adjacent to or north of the northern edge line of State Highway No. 146.]~~ ***The area beginning at the point of the northern edge line of State Highway No. 146 that is 1,500 feet west of the centerline of Las Vegas Boulevard, then proceeding north to the northern edge line of Tropicana Avenue, then proceeding west to the eastern edge line of Interstate 15, then proceeding north to the eastern edge line of Industrial Road, then proceeding north to the southern edge line of New York Avenue, then proceeding east to the intersection of the extension of the southern edge line of New York Avenue and the western edge line of Main Street, then proceeding south to the southern edge line of St. Louis Avenue, then proceeding east to the western edge line of Santa Rita Drive, then proceeding south along a line that is 1,500 feet east of the centerline of Las Vegas Boulevard to the western edge line of Paradise Road, then proceeding south to the southern edge line of Sands Avenue, then proceeding west to a point that is 1,500 feet east of the centerline of Las Vegas Boulevard, then proceeding south along a line that is 1,500 feet from the centerline of Las Vegas Boulevard to the northern edge line of State Highway No. 146, then proceeding west to the point of beginning.***

2. The area beginning at the intersection of the western edge line of Las Vegas Boulevard and the extension of the northern edge line of Lewis Avenue, then proceeding north to the southern edge line of Stewart Avenue, then proceeding west to the eastern edge line of Casino Center Boulevard, then proceeding north to the southern edge line of United States Highway No. 95, then proceeding west to the western edge line of the Union Pacific Railroad Right-of-Way, then proceeding south to a point that is perpendicular to the extension of the northern edge line of Lewis Avenue, then proceeding east to the point of beginning.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 354.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 354.

Bill read third time.

Remarks by Assemblymen Hardy, Oceguera, and Hambrick.

Roll call on Senate Bill No. 354:

YEAS—38.

NAYS—Hardy.

NOT VOTING—Hogan.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 354 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 304.

The following Senate amendment was read:

Amendment No. 907.

SPONSORS: SENATORS Coffin**; AND HORSFORD**

SUMMARY—Makes various changes relating to the preservation **and improvement** of existing neighborhoods. (BDR 22-641)

AN ACT relating to ~~[land use regulation;]~~ **development;** making various changes pertaining to the preservation of historic neighborhoods; **revising certain provisions concerning the Southern Nevada Enterprise Community; requiring the City of Las Vegas and the Nevada Department of Transportation to cooperate to reopen a certain street;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain plans and zoning regulations must incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 268.190, 278.02528, 278.0274, 278.150, 278.160, 278.170, 278.250) ~~[This]~~ **Sections 1.4 and 2-16 of this** bill ~~[requires]~~ **require** certain local governmental entities to address the preservation of historic neighborhoods in those plans and regulations.

Existing law designates certain areas in the urban core of the Las Vegas Valley as the Southern Nevada Enterprise Community. Existing law also establishes the Southern Nevada Enterprise Community Advisory Board and requires the Board to prepare, develop and carry out a project of infrastructure improvement in the Community. (Chapter 407, Statutes of Nevada 2007, pp. 1781-86) Section 25 of this bill changes the name of the Board, and section 26 of this bill revises the membership. Section 27 of this bill expands the duties of the Board to include identifying, seeking funding for and carrying out additional projects in the Community. Section 1.7 of this bill creates the Southern

Nevada Enterprise Community Projects Fund and authorizes the Board to administer the Fund.

Section 32 of this bill requires the City of Las Vegas and the Nevada Department of Transportation to cooperate in funding and bringing about the approval, design and construction of the project to reopen F Street in Las Vegas.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.4 and 1.7 of this act.**

Sec. 1.4. ***"Historic neighborhood" means a subdivided or developed area:***

1. Which consists of 10 or more residential dwelling units;

2. Where at least two-thirds of the residential dwelling units are 40 or more years of age; and

3. Which has been identified by the governing body of the city or county within which the area is located as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Distinguishing characteristics of a historic neighborhood may include, without limitation:

(a) Significance to the cultural, social, political or economic history of the area in which it is located;

(b) Association with a significant person, group or event in local, state or national history;

(c) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or

(d) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.

Sec. 1.7. ***1. The Southern Nevada Enterprise Community Projects Fund is hereby created in the State Treasury. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.***

2. The Southern Nevada Enterprise Community Board shall administer the Fund and may accept gifts, grants and other money for deposit in the Fund.

3. The money in the Fund may only be used to fund projects in the Southern Nevada Enterprise Community and is hereby authorized for expenditure as a continuing appropriation for this purpose.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section*** ~~*[1]*~~ ***1.4 of this act,*** unless the context otherwise requires, the words and terms

defined in NRS 278.0105 to 278.0195, inclusive, ***and section ~~[1]~~ 1.4 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation.

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersion of new housing and businesses in established neighborhoods; ~~[and]~~

(II) ***The preservation of historic neighborhoods; and***

(III) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 4. NRS 278.02556 is hereby amended to read as follows:

278.02556 Except as otherwise provided in this section, a governing body, regional agency, state agency or public utility that is located in whole or in part within the region shall not adopt a master plan, facilities plan or other similar plan, or an amendment thereto, after March 1, 2001, unless the regional planning coalition has been afforded an opportunity to make recommendations regarding the plan or amendment. A governing body, regional agency, state agency or public utility may adopt an amendment to a land use plan described in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160 without affording the regional planning coalition the opportunity to make recommendations regarding the amendment.

Sec. 5. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods ***, including, without limitation, historic neighborhoods,*** and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic

force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) ***Historic neighborhood preservation plan. The plan:***

(1) Must include, without limitation:

(I) ~~*[An]*~~ ***A plan to inventory*** ~~*[of]*~~ ***historic neighborhoods.***

(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.

(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(e) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

~~[(e)]~~ ***(f)*** Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

~~[(f)]~~ ***(g)*** Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

~~[(g)]~~ ***(h)*** Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

~~[(h)]~~ ***(i)*** Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

~~[(i)]~~ ***(j)*** Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

~~[(j)]~~ ***(k)*** Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

~~[(k)]~~ ***(l)*** Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

~~[(l)]~~ ***(m)*** Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

~~[(m)]~~ ***(n)*** School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

~~[(n)]~~ ***(o)*** Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

~~[(o)]~~ ***(p)*** Solid waste disposal plan. Showing general plans for the disposal of solid waste.

~~[(p)]~~ ***(q)*** Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

~~[(q)]~~ ***(r)*** Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

~~[(r)]~~ ***(s)*** Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a);

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains; and

(d) If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.

➥ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph ~~[(f)]~~ ***(g)*** of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension of or addition to the master plan adopted by the planning commission of any city, county or region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 278.235 is hereby amended to read as follows:

278.235 1. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph ~~[(e)]~~ ***(f)*** of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C. § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance

with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 13. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods ~~[.]~~ ***and, in counties whose population is 400,000 or more, the protection of historic neighborhoods.***

(n) To promote systems which use solar or wind energy.

(o) To foster the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 14. NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which

the land is located to assume the maintenance of one or more of the following improvements located on the land:

(a) Landscaping;

(b) Public lighting;

(c) Security walls; and

(d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public

hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(j)]~~ ***(k)*** of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 15. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the

planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]~~ ***(q)*** of subsection 1 of NRS 278.160 which has been adopted for the community.

Sec. 16. NRS 268.190 is hereby amended to read as follows:

268.190 Except as otherwise provided by law, the city planning commission may:

1. Recommend and advise the city council and all other public authorities concerning:

(a) The laying out, widening, extending, paving, parking and locating of streets, sidewalks and boulevards.

(b) The betterment of housing and sanitary conditions, and the establishment of zones or districts within which lots or buildings may be restricted to residential use, or from which the establishment, conduct or operation of certain business, manufacturing or other enterprises may be excluded, and limiting the height, area and bulk of buildings and structures therein.

2. Recommend to the city council and all other public authorities plans and regulations for the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, which must include for each city a population plan if required by NRS 278.170 ***,*** ~~[and]~~ a plan for the development of affordable housing ~~[.]~~ ***and, for each city located in a county whose population is 400,000 or more, a plan to inventory and preserve historic neighborhoods.***

3. Perform any other acts and things necessary or proper to carry out the provisions of NRS 268.110 to 268.220, inclusive, and in general to study and

propose such measures as may be for the municipal welfare and in the interest of protecting the municipal area's natural resources from impairment.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. **Section 3 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:**

Sec. 3. ~~["Advisory]~~ **"**Board" means the Southern Nevada Enterprise Community ~~[Advisory]~~ Board created pursuant to section 8 of this act.

Sec. 26. **Section 8 of chapter 407, Statutes of Nevada 2007, at page 1782, is hereby amended to read as follows:**

Sec. 8. 1. The Southern Nevada Enterprise Community ~~[Advisory]~~ Board is hereby created.

2. The ~~[Advisory]~~ Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the ~~[Nevada Legislature who represents]~~ ***Assembly and one member of the Senate who represent*** the Community ~~[,]~~ ***selected by the Legislative Commission;***

(c) One member of the Clark County Board of County Commissioners selected from among its membership **;** ~~[or his designee;]~~

(d) One member of the Las Vegas City Council from among its membership **;** ~~[or his designee;]~~

(e) One member of the North Las Vegas City Council from among its membership **;** ~~[or his designee;]~~

(f) Two residents of the Community, recommended and selected ~~[jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;]~~ ***by the Stop the F Street Closure, LLC; and***

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community **.** ~~[; and~~

~~(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.]~~

3. Each member of the ~~[Advisory]~~ Board serves for a term of 3 years. A vacancy on the ~~[Advisory]~~ Board must be filled in the same manner as the original appointment. A member may be reappointed to the ~~[Advisory]~~ Board.

4. The members of the ~~[Advisory]~~ Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the ~~[Advisory]~~ Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of ~~[North]~~ Las Vegas shall provide administrative support for the ~~[Advisory]~~ Board.

Sec. 27. **Section 9 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:**

Sec. 9. The primary purposes of the ~~[Advisory]~~ Board are to:

1. Advise the governmental entities that have members on the ~~[Advisory]~~ Board with respect to the Project; ~~[and]~~

2. ***Identify projects that may be eligible for federal funding or funding through city and county redevelopment authorities, and request appropriations for those projects from the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council or the governing boards of their respective redevelopment authorities;***

3. Carry out such additional projects as may be directed by the Legislature; and

4. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project ~~[.]~~ ***and any additional projects assigned to the Board.***

Sec. 28. **Section 11 of chapter 407, Statutes of Nevada 2007, at page 1783, is hereby amended to read as follows:**

Sec. 11. 1. On or before January 31, 2008, the ~~[Advisory]~~ Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The ~~[Advisory]~~ Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the ~~[Advisory]~~ Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the ~~[Advisory]~~ Board rejects the written plan, the ~~[Advisory]~~ Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the ~~[Advisory]~~ Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

5. The Board shall revise the parameters of the Project and the written plan as necessary to ensure that it continues to address the needs of the Community.

Sec. 29. **Section 13 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:**

Sec. 13. The ~~[Advisory]~~ Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 30. **Section 14 of chapter 407, Statutes of Nevada 2007, at page 1784, is hereby amended to read as follows:**

Sec. 14. On or before February 1, 2009, ***and every 2 years thereafter,*** the ~~[Advisory]~~ Board shall submit to the Director of the Legislative Counsel Bureau for transmission to ~~[the 75th Session of]~~ the Nevada Legislature a report that summarizes the activities of the ~~[Advisory]~~ Board **.** ~~[during the period between the effective date of this act and December 31, 2008.]~~

Sec. 31. **The Legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in section 32 of this act because of the number of atypical factors and special conditions relating thereto, including the economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Clark County, the special conditions experienced in the City of Las Vegas related to the need to revitalize specific areas of the City of Las Vegas to ensure that the residents of more densely populated urban areas are provided with a safe environment in which to live and work and the necessity to ameliorate hardships imposed on specific areas of the City of Las Vegas as a consequence of projects undertaken for the general benefit of the people of this State.**

Sec. 32. **The City of Las Vegas shall administer a funding framework for the purposes of reopening traffic on F Street under Interstate 15 in Las Vegas as follows:**

1. The Nevada Department of Transportation shall pay the cost of clearing the project to reopen F Street through the National Environmental Policy Act process using existing funds available for this purpose. Expenditure of those funds is hereby authorized.

2. The City of Las Vegas shall contract to design the construction of the project to reopen F Street up to a maximum of $2.5 million, using funds from the City of Las Vegas Redevelopment Agency for this purpose. The Nevada Department of Transportation shall assist in

funding any portion of the design cost exceeding $2.5 million, and the use of funds available for this purpose is hereby authorized.

3. The City of Las Vegas and the Nevada Department of Transportation shall work collaboratively to fund the construction of the project to reopen F Street as follows:

(a) The City of Las Vegas shall provide $20 million of the funding for the project to reopen F Street by leveraging its share of the county special 5-cent ad valorem capital project tax to issue medium-term obligations after July 1, 2011.

(b) To reopen F Street, the Nevada Department of Transportation shall work with the City of Las Vegas to seek other sources for the remaining portion of the construction costs based on the bridge design documents, including federal funding or additional revenue enhancements provided by the Nevada Department of Transportation. The Nevada Department of Transportation shall designate the project to reopen F Street as a high priority project for funding by any additional revenue enhancements.

Sec. 33. **1. This section and sections 1, 1.7 and 25 to 32, inclusive, of this act become effective upon passage and approval.**

2. Sections 1.4 and 2 to 24, inclusive, of this act become effective on October 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 304.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Leslie moved that Senate Bill No. 152 be taken from the Chief Clerk's desk and rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bill No. 119.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day appointed Senators Woodhouse, Wiener, and Townsend as a Conference Committee concerning Senate Bill No. 17.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

GENERAL FILE AND THIRD READING

Senate Bill No. 119.

Bill read third time.

Roll call on Senate Bill No. 119:

YEAS—40.

NAYS—None.

EXCUSED—Grady, Mortenson—2.

Senate Bill No. 119 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 13, 87, 101, 124, 146, 186, 205, 243, 296, 325, 335, 360, 361, 370, 458, 471, 491, 496, 500, 563; Assembly Resolutions Nos. 2, 10, 11; Senate Bills Nos. 26, 53, 63, 128, 160, 162, 195, 197, 228, 231, 234, 251, 253, 276, 278, 317, 378, 408, 409, 415; Senate Joint Resolutions Nos. 2, 3, 4, and 9; Senate Joint Resolution No. 2 of the 74th Session; Senate Concurrent Resolution No. 35.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Ginger Pierce and Robert Moran.

On request of Assemblyman Goedhart, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Kubichka and Craig Spurgeon.

On request of Assemblywoman Kirkpatrick, the privilege of the floor of the Assembly Chamber for this day was extended to Gage Fiorentino.

On request of Assemblywoman Smith, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Lemon Valley Elementary School: Dustin Ammons, Kimberly Anukam, Austin Costales, Wyatt Dozier, Makayla Halverson, Daniel Hanks, Brooke Heater, Ryan Hinkson, Austin Jones, Nicholas Karpchuk, Morelia Martinez, Rubi Mata, Kristopher Mock, Albert Morris, Eduardo Ontiveros, Kayla Pickett, Valerie Quam, Moaiz Shiekh, Brandy Spencer, Nicholas Spencer, Henry Stewart, Anthony Vasquez, Michael Erlendson, Anthony Esposito, Yessenia Estrada, Brandon Frank, Alan Graham, Selestiana Arias, Cody Bailey, Mackenzie Barrett, Mackenzie Beck, Heriberto Benitez-Camacho, Martin Coria, Manuel Corona Moreno, Anna Destefano, Justin Dozier, Kyla Duggins, Mireya Duron-Rodriquez, Johnathan Keates, Austin Mason, Anthony Pena, Jesus Perez, Alfredo

Rangel, Ixcel Sanchez Chavez, Crista Seiss Lilly, Tyler Simon, Tamaje Edwards, Rochelle Faulkner, Heidee Gifford, Richard Goormastic and Kayla Jensen.

Assemblyman Oceguera moved that the Assembly adjourn until Saturday, May 23, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 9:02 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly