THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 23, 2019

Senate called to order at 12:49 p.m.

President Marshall presiding.

Roll called.

All present.

Prayer by the Rajan Zed.

Om
bhur bhuvah svah
tat savitur varenyam
bhargo devasya dhimahi
dhiyo you nah prachodayat.

We meditate on the transcendental glory of the deity supreme, who is inside the heart of the earth, inside the life of the sky and inside the soul of the heaven. May He stimulate and illuminate our minds.

samani va akutih
samana hrdayani vah
samanam astu vo mano
yatha vah susahasti.

United your resolve, united your hearts, may your spirits be at one, that you may long together dwell in unity and concord.

iyatam kuru karma tvam karma jyayo hyakarmanah
sarirayatrapi ca te na prasiddhyedakarmanah.

Fulfill all your duties; action is better than reaction. Even to maintain your body, you are obliged to act. Selfish action imprisons the world. Act selflessly, without any thought of personal profit.

ya te tanur vaci pratisthita ya srotre ya ca caksusi
ya ca manasi santata sivam tam kuru motkramih.

Be kind to us with Your invisible form which dwells in the voice, the eye and the ear and pervades the mind. Abandon us not.

Om shanti, shanti, shanti.

Peace, peace, peace be unto all.

OM.

Pledge of Allegiance to the Flag.

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

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 22, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 7.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

April 23, 2019

Pursuant to paragraph (a) of subsection 4 of Joint Standing Rule No. 14.6, Senate Bill No. 99 is not subject to the provisions of subsection 1 of Joint Standing Rule No. 14, Joint Standing Rule No. 14.1, subsection 1 of Joint Standing Rule No. 14.2 and Joint Standing Rule No. 14.3.

RICHARD S. COMBS
Director

NOTICE OF EXEMPTION

April 23, 2019

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 493.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that, for this legislative day, all necessary rules be suspended, and that the reprinting of all bills and joint resolutions, amended on the General File, be dispensed with, that the Secretary be authorized to insert all amendments adopted by the Senate, and that the bill or joint resolution be placed back on the General File and considered next.

Motion carried.

Senator Dondero Loop moved that Senate Bill No. 493 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Cannizzaro moved that Senate Bill No. 99 be taken from the General File and re-referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Ratti moved that Senate Bills Nos. 151, 155 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING.

Senate Bill No. 8.

Bill read third time.

Remarks by Senator Scheible.

Senate Bill No. 8 authorizes the State Board of Parole Commissioners to establish conditions for sex offenders under a program of lifetime supervision that are similar to those placed on sex offenders released on parole, probation or a suspended sentence. The Board must make a finding in relation to each condition prior to its imposition. The bill also sets forth provisions determining how the prosecution of a violation of a condition is to be conducted depending on whether the offender lives within or outside of Nevada.

Roll call on Senate Bill No. 8:

YEAS—21.

NAYS—None.

Senate Bill No. 8 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 33.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 33 requires certain insurers to exchange information with a program established by the Division of Welfare and Supportive Services of the Department of Health and Human Services to locate absent parents, establish paternity and obtain and enforce child support not less than five days after opening certain bodily injury, wrongful death, workers' compensation or life insurance claims for the purpose of verifying whether the claimant owes a debt for child support to the Division or to a person receiving services from the program. If a claimant owes child support, the insurer must withhold the amount specified and remit it to the appropriate entity within 30 days. However, priority must be given to any item, claim or demand for attorney's fees or costs, medical expenses or property damage over any amount remitted.

Roll call on Senate Bill No. 33:

YEAS—21.

NAYS—None.

Senate Bill No. 33 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 48.

Bill read third time.

Remarks by Senators Parks, Goicoechea and Pickard.

SENATOR PARKS:

Senate Bill No. 48 authorizes certain local governments to increase diesel taxes under certain circumstances. It authorizes the Board of County Commissioners in all counties, except Clark and Washoe, to impose a tax of up to 5 cents per gallon on diesel fuel. The bill specifies any ordinance imposing the diesel fuel tax must be adopted by a two-thirds majority vote of the board of county commissioners or by a majority of the voters at a general election. The bill additionally provides that the ordinance imposing the tax must not become effective earlier than January 1, 2020.

Senate Bill No. 48 also establishes provisions for implementing the International Fuel Tax Agreement refund provisions within rural counties that impose the diesel fuel tax and that sell more than 10-million gallons of diesel fuel per year.

Finally, under certain circumstances, Senate Bill No. 48 provides for a portion of the diesel fuel taxes collected in the county imposing the tax to be distributed to the Department of Transportation for the construction, maintenance and repair of highway truck parking in that county based on a percentage of the gross diesel fuel tax revenue collected and the amount of International Fuel Tax Agreement refunds issued in each county. It is a great bill.

SENATOR GOICOECHEA:

I stand in support of Senate Bill No. 48; this is a good bill. It allows for up to a 5-cent tax on diesel fuel. There is presently a county tax option on gasoline that is up to 10 cents, but there is no tax on diesel fuel. These funds would be used for county roads. This is enabling legislation. The hard lift here would be for the county boards of commissioners who would put this in by ordinance or take it to the voters to get approval. There are over 10-million gallons of diesel fuel sold in Nevada each year. If this passes, it will help fund truck parking, which is a huge issue as we get across the 80 corridor in northern Nevada with trucks trying to meet the requirements for safe parking on the highways. This is a good bill, and I urge your support. The rural counties need it. In Elko County, this would bring in close to $800,000 for their county roads. If you have driven these roads, you know why we need the tax.

SENATOR PICKARD:

I rise in support of Senate Bill No. 48. This will not affect southern Nevada, but it is the appropriate way to approach any kind of tax increase; we take it down to the lowest level and allow the people to weigh in. I urge your support.

Roll call on Senate Bill No. 48:

YEAS—17.

NAYS—Hansen, Kieckhefer, Seevers Gansert, Settelmeyer—4.

Senate Bill No. 48 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 50.

Bill read third time.

Remarks by Senator Washington.

Senate Bill No. 50 relates to State personnel. Senate Bill No. 50 makes discretionary the temporary limited appointments to certain State agency positions, not to exceed 700 hours, of certified persons with disabilities. Instead, the bill requires the State agency to consider any such person who is eligible for the appointment and authorizes the temporary limited appointment to the position. The bill clarifies that a person with a disability who is certified by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation must be able to perform the functions of the appointed position with or without reasonable accommodations. Finally, Senate Bill No. 50 provides that a temporary limited appointment is allowed and is not a conflict of interest if such appointment is in the same agency from which the appointed person receives benefits.

Roll call on Senate Bill No. 50:

YEAS—21.

NAYS—None.

Senate Bill No. 50 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 73.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 73 revises provisions governing mobile-gaming devices such that those devices are subject to the same rules and regulations as other gaming devices. The amendatory provisions of this bill do not affect the rights and obligations of any operator of a mobile-gaming system who holds a nonrestricted license issued on or before June 30, 2019. Each purchaser, prospective purchaser or any successor in interest to such a purchaser has the same rights and obligations relating to the license to operate a mobile-gaming system.

Additionally, certain persons who acquire beneficial ownership of a voting or nonvoting security or any debt security or who intend to take part in certain proscribed activities in relation to a publicly traded corporation that is registered with the Nevada Gaming Commission must apply for and obtain a finding of suitability from the Commission.

Roll call on Senate Bill No. 73:

YEAS—21.

NAYS—None.

Senate Bill No. 73 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 81.

Bill read third time.

Remarks by Senators Dondero Loop and Settelmeyer.

SENATOR DONDERO LOOP:

Senate Bill No. 81 repeals separate licensing provisions related to cigarettes and other tobacco products in current law and establishes uniform provisions for the licensing, administration and reporting requirements for persons engaged in the manufacture, distribution and sale of cigarettes and other tobacco products. The bill establishes new licenses for logistics companies and warehouse or distribution centers and specifies the activities that each type of licensee may engage in. It establishes procedures for a person to claim a refund which are substantially similar to the provisions of existing law governing overpayments and refunds of sales and use taxes provided in chapter 372 of NRS. It also establishes the value of inventory that must be maintained by wholesale dealers; specifies certain reporting requirements regarding the activities of wholesale dealers and provides certain penalties for the failure to pay the cigarette or other tobacco products tax; establishes certain factors that may be considered by the Department of Taxation in determining the penalty to be imposed on a licensee for certain violations. Finally, the bill revises provisions related to when the 30-percent excise tax on other tobacco products must be paid, depending on whether the taxpayer is a manufacturer, wholesale dealer or retail dealer and whether the taxpayer maintains a place of business in this State.

The provisions governing the uniform administration, licensing and reporting become effective upon passage and approval, and section 29 and subsection 2 of section 83 related to bonding requirements become effective 180 days after passage and approval. The provisions governing the imposition and payment of the tax on other tobacco products become effective on January 1, 2020, and apply to any other tobacco products purchased, received or sold by a wholesale dealer before January 1, 2020, if the tax on those products has not been paid before January 1, 2020.

SENATOR SETTELMEYER:

I appreciate the aspects of Senate Bill No. 81 that seem to create clearer rules for individuals within the process, but I am concerned about the tobacco funds. We get about $40 million a year and $16 million goes to the Millennium Scholarship. This bill will significantly increase the amount of required paperwork for regulators and licensees. I am afraid this could jeopardize the consistency and continuity. Because of this significant risk, we are going to have increased investigations, auditing, licensure, reporting and databases, yet the fiscal has not changed. If you look at other states, they do not report on variances; instead, they look at how to tax it. This will complicate things and potentially add to more litigation. For that reason, I cannot support this bill.

Roll call on Senate Bill No. 81:

YEAS—15.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Pickard, Settelmeyer—6.

Senate Bill No. 81 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 121.

Bill read third time.

Remarks by Senators Woodhouse, Hardy and Cannizzaro.

SENATOR WOODHOUSE:

Senate Bill No. 121 creates a form for a power of attorney for healthcare decisions for persons with any form of dementia that is based on the form used for persons with intellectual disabilities and removes from statute certain declarations that are currently required to be made by a notary public. It also provides that a person who has executed a power of attorney for financial decisions retains the authority to act on his or her own behalf unless the power of attorney specifically removes this authority.

The bill also extends powers that a public guardian currently has regarding investigating financial and familial issues and receiving certain information regarding a protected person to apply to a potential protected person if the guardian has received a referral from the Aging and Disability Services Division of the Department of Health and Human Services, a law enforcement agency or a court in relation to a civil or criminal matter involving the potential protected person. A public guardian in a county of less than 100,000 who seeks to conduct an investigation of a potential protected person may petition the district court in the relevant county to order such an investigation before a guardianship is established. This bill is one of four brought forth by the Interim Study Committee on Behavioral and Cognitive Care. I urge your support.

SENATOR HARDY:

I am concerned about the inclusion of the notary public in this bill. When a person goes to a notary public, they sign a document, and depending on whose company the person is in when they are signing, they may or may not be under some sort of coercion. I realize this bill will pass, but I have challenges with removing some of the opportunities the notary public has to view the person signing.

SENATOR CANNIZZARO:

To address the concerns of my colleague from Senate District 12, we had this conversation in Committee on a number of bills. Last Session, the Legislature passed several bills that dealt with guardianship reform, one of which included changes to notary obligations. One of the changes removed some language from Senate Bill No. 121. On behalf of the Secretary of State, this issue is being addressed in other pieces of legislation.

The language that currently appears in statute requires a notary to make a judgement and to subscribe and to swear to the soundness of mind of the person standing before them. This is not what a notary does; it is outside the purview of what a notary public is asked to do. In clear cases of coercion, that would not apply in these circumstances. This language was removed in this bill as part of standard notary language because it is asking a notary to swear to something they are not authorized or allowed to swear to. We have also addressed this in other pieces of legislation. We have asked the notary first ensure the person standing before them would not be under coercion. There are certain protections which apply within the law for that. This language was removed because it was problematic in that it is asking a notary to do something which they cannot do, thus, causing problems for individuals who want these forms or powers of attorney notarized, and the notary is incapable of doing so. This bill alleviates that issue, which was brought to us by the Secretary of State's Office. Sufficient protections exist within the law to ensure people are not being coerced into signing certain documentation.

Roll call on Senate Bill No. 121:

YEAS—21.

NAYS—None.

Senate Bill No. 121 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 128.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 514.

SUMMARY—Revises provisions governing the administration of occupational licensing boards. (BDR 54-518)

AN ACT relating to occupational licensing boards; revising provisions governing the registration by the Nevada State Board of Accountancy of partnerships, corporations, limited-liability companies and sole proprietorships; requiring the Board of Medical Examiners to report certain additional licensure information; requiring members of the Nevada Physical Therapy Board to attend certain training; ~~[abolishing the State Barbers' Health and Sanitation Board and transferring its powers and duties to the State Board of Cosmetology;]~~ providing for the issuance of a provisional license as an instructor in the practice of barbering; requiring the State Board of Cosmetology to adopt regulations to provide for the issuance of an endorsement to render shaving services on certain licenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law grants practice privileges in this State to a natural person who holds a valid license as a certified public accountant in another state, territory or possession of the United States or the District of Columbia. (NRS 628.033, 628.315) Such a natural person is not required to obtain a certificate of certified public accountant or a permit to engage in the practice of public accounting from the Nevada State Board of Accountancy but is required to consent to certain specified conditions, including consent to the disciplinary authority of the Board. (NRS 628.315) Section 3.15 of this bill extends the authority of the Board to grant such practice privileges to a certified public accounting firm organized as a partnership, corporation or limited-liability company or a sole proprietorship which holds a valid registration in good standing from another state, territory or possession of the United States or the District of Columbia. Such a certified public accounting firm is not required to register with the Board, but is required to consent to the same conditions as natural persons, such as consent to the disciplinary authority of the Board. Sections 3.1 and 3.25-3.85 of this bill make conforming changes. Section 3.2 of this bill exempts certain entities whose sole business is preparing tax returns and related schedules from the requirement of registration.

Existing law requires the Board of Medical Examiners to maintain records pertaining to applicants to whom licenses have been issued or denied by the Board. (NRS 630.220) Existing law also requires the Board of Medical Examiners to report certain licensure information relating to veterans and service members. (NRS 417.0194, 622.120) Section 3.9 of this bill requires the Board of Medical Examiners to submit an annual report to the Legislature containing certain information relating to applicants for licensure by endorsement by the Board who are members of the Armed Forces of the United States, veterans and certain family members of veterans or members of the Armed Forces of the United States.

Section 4 of this bill requires each new member of the Nevada Physical Therapy Board to attend certain training, which existing law requires the

Attorney General to provide to members of occupational licensing boards. (NRS 622.200)

Existing law ~~[authorizes]~~ creates the State Barbers' Health and Sanitation Board to regulate the ~~[profession of barbering. (NRS 643.010) Sections 4.1, 4.2 and subsection 2 of section 5 of this bill abolish the State Barbers' Health and Sanitation Board, effective 1 year after passage and approval of this bill, and transfer its powers and duties to regulate barbering to the State Board of Cosmetology.]~~ sanitary requirements for barbershops and barber schools and the conduct and course of study of barber schools. (NRS 643.020, 643.050) Section 4.05 of this bill establishes the requirements for a licensed barber to obtain a provisional license as an instructor and work while receiving the training. Section 4.25 of this bill prohibits an instructor from training more than two persons who each hold a provisional license as an instructor at the same time.

Existing law requires the State Board of Cosmetology to regulate the various branches of cosmetology, including the licensure of cosmetologists and hair designers. (Chapter 644A of NRS) Existing law requires the State Board of Cosmetology to adopt reasonable regulations for carrying out provisions of law relating to cosmetology. (NRS 644A.275) Sections 4.28 and 4.29 of this bill require the Board to adopt regulations to provide for the issuance of an endorsement to render shaving services on a license to practice cosmetology or a license to practice hair design. Sections 4.28 and 4.29 require these regulations to establish: (1) the manner in which to apply for such an endorsement; (2) the training required to obtain such an endorsement; and (3) procedures for the renewal of such an endorsement.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.1. NRS 628.023 is hereby amended to read as follows:

628.023 "Practice of public accounting" means the offering to perform or the performance by a holder of a live permit or a natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315, for a client or potential client, of one or more services involving the use of skills in accounting or auditing, one or more services relating to advising or consulting with clients on matters relating to management or the preparation of tax returns and the furnishing of advice on matters relating to taxes.

Sec. 3.15. NRS 628.315 is hereby amended to read as follows:

628.315 1. Except as otherwise provided in this chapter, a natural person who holds a valid license *in good standing* as a certified public accountant *or a certified public accounting firm organized as a partnership, corporation or limited-liability company or a sole proprietorship which holds a valid registration in good standing* from any state other than this State shall be

deemed to be a certified public accountant *or certified public accounting firm* for all purposes under the laws of this State other than this chapter.

2. A natural person *or certified public accounting firm* granted practice privileges pursuant to subsection 1 is not required to obtain ~~[.]~~ *, as applicable:*

(a) A certificate pursuant to NRS 628.190; ~~[or]~~

(b) A permit pursuant to NRS 628.380 ~~[.]~~ *; or*

(c) A registration pursuant to NRS 628.335.

3. A natural person granted practice privileges pursuant to subsection 1 and a partnership, corporation, limited-liability company or sole proprietorship that employs such a *natural* person *or a certified public accounting firm granted practice privileges pursuant to subsection 1* shall be deemed to consent, as a condition of the grant of such practice privileges:

(a) To the personal and subject matter jurisdiction, and disciplinary authority, of the Board.

(b) To comply with the provisions of this chapter and the regulations of the Board.

(c) That, in the event that the license from the state wherein the ~~[natural person's]~~ principal place of business *of the natural person or certified public accounting firm* is located becomes invalid ~~[, the]~~ *or not in good standing:*

(1) The natural person will cease offering or engaging in the practice of ~~[professional]~~ *public* accounting in this State individually and on behalf of a partnership, corporation, limited-liability company or sole proprietorship ~~[.]~~ *; or*

(2) The certified public accounting firm will cease offering or engaging in the practice of public accounting in this State.

(d) To the appointment of the state board that issued the license as the agent upon whom process may be served in any investigation, action or proceeding *by the Board* relating to ~~[the]~~ *:*

(1) The natural person or the partnership, corporation, limited-liability company or sole proprietorship ~~[by the Board.~~

~~4. A natural person granted practice privileges pursuant to subsection 1 may perform attest services for a client having his or her home office in this State only if the partnership, corporation, limited liability company or sole proprietorship that employs the person is registered pursuant to NRS 628.335.]~~ *that employs the natural person; or*

(2) The certified public accounting firm.

Sec. 3.2. NRS 628.335 is hereby amended to read as follows:

628.335 1. The Board shall grant or renew registration to a partnership, corporation ~~[,]~~ *or* limited-liability company ~~[or sole proprietorship]~~ that demonstrates its qualifications therefor in accordance with this chapter.

2. ~~[A]~~ *Except as otherwise provided in subsection 3, a* partnership, corporation or limited-liability company with an office in this State shall register with the Board if the partnership, corporation or limited-liability company:

(a) Performs attest services;

(b) Performs compilation services;

(c) Is engaged in the practice of public accounting; or

(d) Is styled and known as a certified public accountant or uses the abbreviation "C.P.A."

3. ~~[A]~~ *An entity that is organized as a* partnership, corporation ~~[,]~~ *or* limited-liability company ~~[or sole proprietorship that does not have an office in this State:~~

~~(a) Shall register with the Board if the partnership, corporation, limited liability company or sole proprietorship performs attest services for a client having his or her home office in this State.~~

~~(b) May practice public accounting, may perform compilation services or other professional services within the practice of public accounting other than attest services for a client having his or her home office in this State, may be styled and known as a certified public accountant and may use the title or designation "certified public accountant" and the abbreviation "C.P.A." without registering with the Board if:~~

~~(1) Persons who are certified public accountants in any state constitute a simple majority, in terms of financial interests and voting rights of all partners, shareholders, officers, members and principals thereof, of the ownership of the partnership, corporation, limited liability company or sole proprietorship;~~

~~(2) The partnership, corporation, limited liability company or sole proprietorship complies with the provisions of subsection 5 of NRS 628.325, if applicable;~~

~~(3) A natural person granted practice privileges pursuant to NRS 628.315 practices such public accounting or performs such compilation services or such other professional services within the practice of public accounting for the client having his or her home office in this State; and~~

~~(4) The partnership, corporation, limited liability company or sole proprietorship can lawfully perform such services in the state where the natural person described in subparagraph (3) has his or her principal place of business.~~

~~4. A natural person granted practice privileges pursuant to NRS 628.315 must not be required to obtain a permit from this State pursuant to NRS 628.380 if the person performs such professional services for:~~

~~(a) Which a partnership, corporation, limited liability company or sole proprietorship is required to register pursuant to subsection 2 or 3; or~~

~~(b) A partnership, corporation or limited liability company registered pursuant to the provisions of NRS 628.325.]~~ *is not required to register with the Board pursuant to this section if:*

(a) The entity is not styled or known as a firm of certified public accountants;

(b) The entity is not using the title or designation "certified public accountant" or the abbreviation "C.P.A."; and

(c) The sole business of the entity is preparing tax returns or schedules in support of tax returns.

Sec. 3.25. NRS 628.340 is hereby amended to read as follows:

628.340 1. A partnership required to register with the Board pursuant to NRS 628.335 must meet the following requirements:

(a) At least one general partner must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(b) Each partner who is a resident of this State and is personally and regularly engaged within this State in the practice of public accounting as a member thereof, or whose principal place of business is in this State and who is engaged in the practice of ~~[professional]~~ *public* accounting in this State, must be a certified public accountant of this State in good standing.

(c) Each partner who is personally and regularly engaged in the practice of public accounting in this State must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(d) Each partner who is regularly engaged in the practice of public accounting within the United States must be a certified public accountant in good standing of some state or jurisdiction of the United States.

(e) Each manager in charge of an office of the partnership in this State must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or a natural person granted practice privileges pursuant to NRS 628.315.]~~

(f) A corporation or limited-liability company which is registered pursuant to NRS 628.343 or 628.345 may be a partner, and a partnership which is registered pursuant to this section may be a general partner, in a partnership engaged in the practice of public accounting.

2. Application for registration must be made upon the affidavit of ~~[either]~~ a general partner who holds a live permit to practice in this State as a certified public accountant . ~~[or, if the partnership is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A partnership which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its partnership name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a partner from any partnership so registered.

Sec. 3.3. NRS 628.343 is hereby amended to read as follows:

628.343 1. A corporation required to register with the Board pursuant to NRS 628.335 shall comply with the following requirements:

(a) The sole purpose and business of the corporation must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the corporation may invest its money in a manner not incompatible with the practice of public accounting.

(b) The principal officer of the corporation and any officer or director having authority over the practice of public accounting by the corporation must be a certified public accountant of ~~[some state]~~ *this State* in good standing.

(c) At least one shareholder of the corporation must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(d) Each manager in charge of an office of the corporation in this State and each shareholder or director who is regularly and personally engaged within this State in the practice of public accounting must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of stock, there must be a written agreement binding the shareholders or the corporation to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder. The corporation may retire any amount of stock for this purpose, notwithstanding any impairment of its capital, so long as one share remains outstanding.

(f) The corporation shall comply with other regulations pertaining to corporations practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of ~~[either]~~ a shareholder who holds a live permit to practice in this State as a certified public accountant . ~~[or, if the corporation is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A corporation which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its corporate name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a shareholder from any corporation so registered.

Sec. 3.35. NRS 628.345 is hereby amended to read as follows:

628.345 1. A limited-liability company required to register with the Board pursuant to NRS 628.335 shall comply with the following requirements:

(a) The sole purpose and business of the limited-liability company must be to furnish to the public services not inconsistent with this chapter or the regulations of the Board, except that the limited-liability company may invest its money in a manner not incompatible with the practice of public accounting.

(b) The manager, if any, of the limited-liability company must be a certified public accountant of ~~[some state]~~ *this State* in good standing.

(c) At least one member of the limited-liability company must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the limited-liability company is required to register pursuant to paragraph (a) of~~

~~subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(d) Each person in charge of an office of the limited-liability company in this State and each member who is regularly and personally engaged within this State in the practice of public accounting must be ~~[either]~~ a certified public accountant of this State in good standing . ~~[or, if the limited-liability company is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, a natural person granted practice privileges pursuant to NRS 628.315.]~~

(e) In order to facilitate compliance with the provisions of this section relating to the ownership of interests, there must be a written agreement binding the members or the limited-liability company to purchase any interest offered for sale by, or not under the ownership or effective control of, a qualified member.

(f) The limited-liability company shall comply with other regulations pertaining to limited-liability companies practicing public accounting in this State adopted by the Board.

2. Application for registration must be made upon the affidavit of the manager or a member of the limited-liability company. The affiant must hold a live permit to practice in this State as a certified public accountant . ~~[or, if the limited-liability company is required to register pursuant to paragraph (a) of subsection 3 of NRS 628.335, be a natural person granted practice privileges pursuant to NRS 628.315.]~~ The Board shall determine whether the applicant is eligible for registration and may charge an initial fee and an annual renewal fee set by the Board by regulation. A limited-liability company which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A.'s" or "CPA's" in connection with its name. Notice must be given to the Board within 1 month after the admission to or withdrawal of a member from any limited-liability company so registered.

Sec. 3.4. NRS 628.390 is hereby amended to read as follows:

628.390 1. After giving notice and conducting a hearing, the Board may revoke, or may suspend for a period of not more than 5 years, any certificate issued under NRS 628.190 to 628.310, inclusive, any practice privileges granted pursuant to NRS 628.315 ~~[or 628.335]~~ or any registration of a partnership, corporation, limited-liability company, sole proprietorship or office, or may revoke, suspend or refuse to renew any permit issued under NRS 628.380, or may publicly censure the holder of any permit, certificate or registration or any natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315, for any one or any combination of the following causes:

(a) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining a permit to practice public accounting under this chapter.

(b) Dishonesty, fraud or gross negligence by a certified public accountant or a natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315.

(c) Violation of any of the provisions of this chapter.

(d) Violation of a regulation or rule of professional conduct adopted by the Board under the authority granted by this chapter.

(e) Conviction of a felony relating to the practice of public accounting under the laws of any state or jurisdiction.

(f) Conviction of any crime:

(1) An element of which is dishonesty or fraud; or

(2) Involving moral turpitude,

➥ under the laws of any state or jurisdiction.

(g) Cancellation, revocation, suspension, placing on probation or refusal to renew authority to practice as a certified public accountant by any other state, for any cause . ~~[other than failure to pay an annual registration fee or to comply with requirements for continuing education or review of his or her practice in the other state.]~~

(h) Suspension, revocation or placing on probation of the right to practice before any state or federal agency.

(i) Unless the person has been placed on inactive or retired status, failure to obtain an annual permit under NRS 628.380, within:

(1) Sixty days after the expiration date of the permit to practice last obtained or renewed by the holder of a certificate; or

(2) Sixty days after the date upon which the holder of a certificate was granted the certificate, if no permit was ever issued to the person, unless the failure has been excused by the Board.

(j) Conduct discreditable to the profession of public accounting or which reflects adversely upon the fitness of the person to engage in the practice of public accounting.

(k) Making a false or misleading statement in support of an application for a certificate or permit of another person.

(l) Committing an act in another state or jurisdiction which would be subject to discipline in that state.

2. After giving notice and conducting a hearing, the Board may deny an application to take the examination prescribed by the Board pursuant to NRS 628.190, deny a person admission to such an examination, invalidate a grade received for such an examination or deny an application for a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, to a person who has:

(a) Made any false or fraudulent statement, or any misleading statement or omission relating to a material fact in an application:

(1) To take the examination prescribed by the Board pursuant to NRS 628.190; or

(2) For a certificate issued pursuant to NRS 628.190 to 628.310, inclusive;

(b) Cheated on an examination prescribed by the Board pursuant to NRS 628.190 or any such examination taken in another state or jurisdiction of the United States;

(c) Aided, abetted or conspired with any person in a violation of the provisions of paragraph (a) or (b); or

(d) Committed any combination of the acts set forth in paragraphs (a), (b) and (c).

3. In addition to other penalties prescribed by this section, the Board may impose a civil penalty of not more than $5,000 for each violation of this section.

4. The Board shall not privately censure the holder of any permit or certificate or any natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 3.45. NRS 628.430 is hereby amended to read as follows:

628.430 All statements, records, schedules, working papers and memoranda made by a certified public accountant or a natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315 incident to or in the course of professional service to clients by the accountant, except reports submitted by a certified public accountant or a natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315 to a client, are the property of the accountant, in the absence of an express agreement between the accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum may be sold, transferred or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or new partners of the accountant or to his or her corporation.

Sec. 3.5. NRS 628.435 is hereby amended to read as follows:

628.435 1. A practitioner shall comply with all professional standards for accounting and documentation related to an attestation applicable to particular engagements.

2. Except as otherwise provided in this section and in all professional standards for accounting and documentation related to an attestation applicable to particular engagements, a practitioner shall retain all documentation related to an attestation for not less than 5 years after the date of the report containing the attestation.

3. Documentation related to an attestation that, at the end of the retention period set forth in subsections 1 and 2, is a part of or subject to a pending investigation of, or disciplinary action against, a practitioner must be retained and must not be destroyed until the practitioner has been notified in writing that the investigation or disciplinary action has been closed or concluded.

4. As used in this section:

(a) "Documentation related to an attestation" includes, without limitation:

(1) All documentation relating to consultations and resolutions of any differences of professional opinion regarding the exercise of professional judgment relating to an attestation; and

(2) Documentation of the findings or issues related to the attestation that, based on the judgment of the practitioner after an objective analysis of the facts and circumstances, is determined to be significant, regardless of whether the documentation includes information or data that is inconsistent with the final conclusions of the practitioner.

(b) "Practitioner" means:

(1) A holder of a certificate issued pursuant to NRS 628.190 to 628.310, inclusive, or a permit issued pursuant to NRS 628.380;

(2) A partnership, corporation, limited-liability company or sole proprietorship registered pursuant to NRS 628.335; or

(3) A natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315.

Sec. 3.55. NRS 628.460 is hereby amended to read as follows:

628.460 A partnership, corporation, limited-liability company or sole proprietorship shall not assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation, limited-liability company or sole proprietorship is composed of certified public accountants unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered as a partnership, corporation, limited-liability company or sole proprietorship of certified public accountants and all offices of the partnership, corporation, limited-liability company or sole proprietorship in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. ~~[Performing services within the practice of public accounting]~~ *Granted practice privileges* pursuant to the provisions of ~~[subsection 3 of]~~ NRS ~~[628.335.]~~ *628.315*.

Sec. 3.6. NRS 628.480 is hereby amended to read as follows:

628.480 A partnership, corporation, limited-liability company or sole proprietorship shall not assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that the partnership, corporation, limited-liability company or sole proprietorship is composed of public accountants unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered as a partnership, corporation, limited-liability company or sole proprietorship of certified public accountants and all offices of the partnership, corporation, limited-liability company or sole proprietorship in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. ~~[Performing services within the practice of public accounting]~~ *Granted practice privileges* pursuant to ~~[the provisions of subsection 3 of]~~ NRS ~~[628.335.]~~ *628.315*.

Sec. 3.65. NRS 628.490 is hereby amended to read as follows:

628.490 1. Except as otherwise provided in subsection 2 and NRS 628.450 to 628.480, inclusive, a person, partnership, corporation, limited-liability company or sole proprietorship shall not assume or use the title or designation "certified accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "C.A." or "P.A." or similar abbreviations likely to be confused with "C.P.A."

2. ~~[Anyone]~~ *Any person, partnership, corporation, limited-liability company or sole proprietorship* who:

(a) Holds a live permit pursuant to NRS 628.380 or is registered as a partnership, corporation, limited-liability company or sole proprietorship pursuant to the provisions of this chapter and all of whose offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; *or*

(b) Has been granted practice privileges pursuant to NRS 628.315 , ~~[; or~~

~~(c) Is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335,]~~

➥ may hold himself or herself out to the public as an "accountant," "auditor" or "certified public accountant."

Sec. 3.7. NRS 628.510 is hereby amended to read as follows:

628.510 1. Except as otherwise provided in subsection 2, a person shall not sign or affix his or her name or the name of a partnership, corporation, limited-liability company or sole proprietorship, or any trade or assumed name used by the person or by the partnership, corporation, limited-liability company or sole proprietorship in business, with any wording indicating that he or she is an accountant or auditor, or that the partnership, corporation, limited-liability company or sole proprietorship is authorized to practice as an accountant or auditor or with any wording indicating that the person or the partnership, corporation, limited-liability company or sole proprietorship has expert knowledge in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless:

(a) The person holds a live permit or the partnership, corporation, limited liability company or sole proprietorship is registered pursuant to NRS 628.335 and all of the person's offices in this State for the practice of public accounting are maintained and registered under NRS 628.370;

(b) The person is a natural person *or certified public accounting firm* granted practice privileges pursuant to NRS 628.315 . ~~[; or~~

~~(c) The partnership, corporation, limited liability company or sole proprietorship is performing services within the practice of public accounting pursuant to the provisions of subsection 3 of NRS 628.335.]~~

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, principal or member of any organization from affixing his or her signature to any statement or report in reference to the

financial affairs of that organization with any wording designating the position, title or office which he or she holds in the organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.

(c) Any person who does not hold a live permit from preparing a financial statement or issuing a report if the statement or report, respectively, includes a disclosure that:

(1) The person who prepared the statement or issued the report does not hold a live permit issued by the Board; and

(2) The statement or report does not purport to have been prepared in compliance with the professional standards of accounting adopted by the Board.

Sec. 3.75. NRS 628.520 is hereby amended to read as follows:

628.520 A person shall not sign or affix the name of a partnership, corporation, limited-liability company or sole proprietorship with any wording indicating that it is a partnership, corporation, limited-liability company or sole proprietorship composed of accountants or auditors or persons having expert knowledge or special expertise in accounting or auditing, to any accounting or financial statement, or attest to any accounting or financial statement, unless the partnership, corporation, limited-liability company or sole proprietorship is:

1. Registered pursuant to NRS 628.335 and all of its offices in this State for the practice of public accounting are maintained and registered as required under NRS 628.370; or

2. ~~[Performing services within the practice of public accounting]~~ *Granted practice privileges* pursuant to ~~[the provisions of subsection 3 of]~~ NRS ~~[628.335.]~~ *628.315*.

Sec. 3.8. NRS 628.540 is hereby amended to read as follows:

628.540 1. Except as otherwise provided in subsection 2, a person, partnership, corporation, limited-liability company or sole proprietorship shall not engage in the practice of public accounting or hold himself, herself or itself out to the public as an "accountant" or "auditor" by use of either or both of those words in connection with any other language which implies that such a person or firm holds a certificate, permit or registration or has special competence as an accountant or auditor on any sign, card, letterhead or in any advertisement or directory unless:

(a) If a natural person, he or she holds a live permit or has been granted practice privileges pursuant to NRS 628.315; or

(b) If a partnership, corporation, limited-liability company or sole proprietorship, it is registered pursuant to NRS 628.335 or ~~[is performing services within the practice of public accounting]~~ *has been granted practice privileges* pursuant to ~~[the provisions of subsection 3 of]~~ NRS ~~[628.335.]~~ *628.315*.

2. The provisions of subsection 1 do not prohibit:

(a) Any officer, employee, partner, shareholder, principal or member of any organization from describing himself or herself by the position, title or office he or she holds in that organization.

(b) Any act of a public official or public employee in the performance of his or her duties as such.

Sec. 3.85. NRS 628.550 is hereby amended to read as follows:

628.550 1. A person shall not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, corporation or limited-liability company, or in conjunction with the designation "and Company" or "and Co." or a similar designation, if there is in fact no bona fide partnership, corporation or limited-liability company:

(a) Registered under NRS 628.335; or

(b) ~~[Performing services within the practice of public accounting]~~ *Granted practice privileges* pursuant to ~~[the provisions of subsection 3 of]~~ NRS ~~[628.335.]~~ *628.315*.

2. A person, partnership, corporation or limited-liability company shall not engage in the practice of public accounting under any name which is misleading as to:

(a) The legal form of the firm;

(b) The persons who are partners, officers, shareholders or members; or

(c) Any other matter.

➥ The names of past partners, shareholders or members may be included in the name of a firm or its successors.

Sec. 3.9. NRS 630.220 is hereby amended to read as follows:

630.220 *1.* The Board shall maintain records pertaining to applicants to whom licenses or permits have been issued or denied. The records must be open to the public and must include:

~~[1.]~~ *(a)* The name of each applicant.

~~[2.]~~ *(b)* The name of the school granting the diploma to the applicant.

~~[3.]~~ *(c)* The date of the diploma.

~~[4.]~~ *(d)* The address of the applicant.

~~[5.]~~ *(e)* The date of issuance or denial of the license.

2. On or before January 31 of each year, the Executive Director of the Board shall compile a report on the number of:

(a) Members of the Armed Forces of the United States, spouses of such members, veterans and surviving spouses of deceased veterans who applied for licensure by endorsement to the Board during the immediately preceding year;

(b) Such licenses issued;

(c) Such licenses denied and the reasons for denial; and

(d) Days taken by the Board to process each such application.

3. On or before January 31 of each year, the Executive Director of the Board shall submit to the Director of the Legislative Counsel Bureau for

transmittal to the Legislature or, if the Legislature is not in session, to the Legislative Commission, the report required pursuant to subsection 2.

Sec. 4. NRS 640.030 is hereby amended to read as follows:

640.030 1. The Nevada Physical Therapy Board, consisting of five members appointed by the Governor, and any nonvoting advisory members appointed by the Board pursuant to NRS 640.055, is hereby created.

2. The Governor shall appoint:

(a) Three members who are licensed physical therapists in the State of Nevada.

(b) One member who is a licensed physical therapist assistant in the State of Nevada.

(c) One member who is a representative of the general public. This member must not be:

(1) A physical therapist or a physical therapist assistant; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a physical therapist or a physical therapist assistant.

3. No member of the Board may serve more than two consecutive terms.

4. The Governor may remove any voting member of the Board for incompetency, neglect of duty, gross immorality or malfeasance in office.

5. A majority of the voting members of the Board constitutes a quorum.

6. No member of the Board may be held liable in a civil action for any act which he or she has performed in good faith in the execution of his or her duties under this chapter.

7. The Board shall comply with the provisions of chapter 241 of NRS, and all meetings of the Board must be conducted in accordance with that chapter.

8. Each member of the Board, as soon as practicable after being first-appointed to serve as a member of the Board, shall attend the training provided by the Office of the Attorney General pursuant to NRS 622.200.

Sec. 4.05. Chapter 643 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or the equivalent;

(b) Has practiced as a full-time licensed barber for at least 3 years and submits written verification of his or her experience;

(c) Is licensed as a barber pursuant to this chapter;

(d) Applies for the provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not more than $210 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of instruction required pursuant to NRS 643.1775 for a license as an instructor.

4. A provisional license as an instructor expires upon the completion by the licensee of the number of hours of instruction required pursuant to NRS 643.1775 for a license as an instructor or 1 year after the date of issuance of the provisional license, whichever occurs first. The Board may grant an extension of the expiration of the provisional license of not more than 45 days to provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

Sec. 4.1. ~~[NRS 643.010 is hereby amended to read as follows:~~

~~643.010 As used in this chapter, unless the context otherwise requires:~~

~~1. "Barber school" includes a school of barbering, college of barbering and any other place or institution of instruction training persons to engage in the practice of barbering.~~

~~2. "Barbershop" means any establishment or place of business where the practice of barbering is engaged in or carried on.~~

~~3. "Board" means the State [Barbers' Health and Sanitation] Board [.] *of Cosmetology created by NRS 644A.200*.~~

~~4. "Instructor" means any person who is licensed by the Board pursuant to the provisions of this chapter to instruct the practice of barbering in a barber school.~~

~~5. "Licensed apprentice" means a person who is licensed to engage in the practice of barbering as an apprentice pursuant to the provisions of this chapter.~~

~~6. "Licensed barber" means a person who is licensed to engage in the practice of barbering pursuant to the provisions of this chapter.~~

~~7. "Practice of barbering" means any of the following practices for cosmetic purposes:~~

~~(a) Shaving or trimming the beard, cutting or trimming the hair, or hair weaving.~~

~~(b) Giving massages of the face or scalp or treatments with oils, creams, lotions or other preparations, by hand or mechanical appliances.~~

~~(c) Singeing, shampooing or dyeing the hair, or applying hair tonics.~~

~~(d) Applying cosmetic preparations, antiseptics, powders, oils or lotions to the scalp, face or neck.~~

~~(e) Arranging, fitting, cutting, styling, cleaning, coloring or dyeing a hairpiece or wig, whether made of human hair or synthetic material. This does not restrict any establishment from setting or styling a hairpiece or wig in preparation for retail sale.~~

~~8. "Student" means a person receiving instruction in a barber school.]~~ (Deleted by amendment.)

Sec. 4.2. ~~[NRS 643.060 is hereby amended to read as follows:~~

~~643.060 1. Except as otherwise provided in subsection 3, money received by the Board under this chapter must be [paid to the Secretary-Treasurer of the Board, who shall deposit the money] *deposited* in banks, credit unions, savings and loan associations or savings banks in the State of Nevada . [and give a receipt for it.]~~

~~2. The money must be expended in accordance with the provisions of this chapter for all necessary and proper expenses in carrying out the provisions of this chapter and upon proper claims approved by the Board.~~

~~3. The Board shall deposit the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, and may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fees or the costs of an investigation, or both.]~~ (Deleted by amendment.)

Sec. 4.25. NRS 643.177 is hereby amended to read as follows:

643.177 *1.* Any person who owns, manages, operates or controls any barber school, or part thereof:

~~[1.]~~ *(a)* Shall:

~~[(a)]~~ *(1)* Display a sign that may be easily seen upon entering the barber school on which is printed in bold letters "Work Performed Exclusively by Students";

~~[(b)]~~ *(2)* Have at least:

~~[(1)]~~ *(I)* One instructor on the premises of the barber school at all times if the active enrollment of the school is 20 students or less;

~~[(2)]~~ *(II)* One additional instructor on the premises of the barber school for each 20 students enrolled in the school in excess of 20 students;

~~[(3)]~~ *(III)* Two instructors available to provide instruction at all times; and

~~[(4)]~~ *(IV)* One barber's chair for each student present during instruction in the barber school;

~~[(c)]~~ *(3)* Not allow a student to provide barbering services to members of the general public for more than 7 hours in a day or for more than 5 days in any 7-day period;

~~[(d)]~~ *(4)* Not advertise that the barber school will charge for barbering services provided to members of the general public by students unless those barbering services are specifically advertised as services provided by students; and

~~[(e)]~~ *(5)* Comply with all other provisions of this chapter relating to barber schools.

~~[2.]~~ *(b)* May charge for barbering services provided to a member of the general public by a student if the student performs those barbering services as part of the required course of study of the barber school.

2. An instructor shall not provide instruction to more than two persons who each hold a provisional license as an instructor at the same time.

Sec. 4.27. Chapter 644A of NRS is hereby amended by adding thereto the provisions set forth as sections 4.28 and 4.29 of this act.

Sec. 4.28. The Board shall adopt regulations to provide for the issuance of an endorsement on a license to practice cosmetology which allows a licensed cosmetologist to render shaving services. Such regulations must establish, without limitation:

1. The manner in which to apply for an endorsement;

2. The training required to obtain an endorsement; and

3. Procedures for the renewal of an endorsement.

Sec. 4.29. The Board shall adopt regulations to provide for the issuance of an endorsement on a license to practice hair design which allows a licensed hair designer to render shaving services. Such regulations must establish, without limitation:

1. The manner in which to apply for an endorsement;

2. The training required to obtain an endorsement; and

3. Procedures for the renewal of an endorsement.

Sec. 4.3. ~~[1. Any administrative regulations adopted by an officer or entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act remain in force until amended by the officer or entity to which the responsibility for the adoption of the regulations has been transferred.~~

~~2. Any contracts or other agreements entered into by an officer or entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act are binding upon the officer or entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or entity to which the responsibility for the enforcement of the provisions of the contract or other agreements has been transferred.~~

~~3. Any action taken by an officer or entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act remains in effect as if taken by the officer or entity to which the responsibility for the enforcement of such actions has been transferred.]~~ (Deleted by amendment.)

Sec. 4.4. ~~[The State Barbers' Health and Sanitation Board created by NRS 643.020, as that section exists on the effective date of this section, shall not expend any money pursuant to subsection 2 of NRS 643.060 without the approval of the State Board of Cosmetology created by NRS 644A.200.]~~ (Deleted by amendment.)

Sec. 4.5. ~~[The State Board of Cosmetology created by NRS 644A.200 shall adopt regulations and perform any other preparatory administrative tasks that are necessary to carry out the provisions of section 4.1 of this act not later than 1 year after the effective date of this section.]~~ (Deleted by amendment.)

Sec. 4.6. ~~[A person who, on the effective date of this section, is the holder of a valid license issued pursuant to chapter 643 of NRS shall be deemed to hold a license issued by the State Board of Cosmetology created by NRS 644A.200 pursuant to chapter 643 of NRS.]~~ (Deleted by amendment.)

Sec. 4.7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 4.8. ~~[1.]~~ NRS 628.017 is hereby repealed.

~~[2. NRS 643.020, 643.030, 643.040 and 643.055 are hereby repealed.]~~

Sec. 5. 1. This section and sections ~~[4.4]~~ 4.05 and ~~[4.5]~~ 4.25 of this act become effective upon passage and approval.

2. Sections 3.9, 4 , 4.27, 4.28, 4.29 and 4.7 of this act become effective on July 1, 2019.

3. Sections 3.1 to 3.85, inclusive, and ~~[subsection 1 of section]~~ 4.8 of this act become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out those provisions; and on January 1, 2020, for all other purposes.

~~[4. Sections 4.1, 4.2, 4.3 and 4.6 and subsection 2 of section 4.8 of this act become effective 1 year after passage and approval.]~~

~~[HEADLINES]~~ TEXT OF REPEALED ~~[SECTIONS]~~ SECTION

628.017 "Home office" defined. "Home office" means the location specified by a client of an accountant as the address of an entity for which the accountant practices public accounting, performs an attestation or compilation or performs other professional services within the practice of public accounting.

~~[643.020 Creation; qualifications and removal of members.~~

~~ 643.030 Election of officers; salary of officers and members; per diem allowance and travel expenses of officers, members and employees; duties of Secretary-Treasurer.~~

~~ 643.040 Meetings; quorum; seal; quarters.~~

~~ 643.055 Fiscal year.]~~

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 514 makes three changes to Senate Bill No. 128. The amendment deletes provisions which abolish the State Barbers' Health and Sanitation Board and transfers its powers and duties to the State Board of Cosmetology; amends the bill to authorize the State Barbers' Health and Sanitation Board to issue a provisional license as an instructor to a person who meets certain requirements, and amends the bill to require the State Board of Cosmetology to adopt regulations for issuing and endorsement to render shaving services on a license to practice cosmetology or a license to practice hair design.

Amendment adopted.

Bill read third time.

Remarks by Senators Spearman and Kieckhefer.

SENATOR SPEARMAN:

Senate Bill No. 128 grants a certified public accounting firm that is registered in another state privileges to practice in this State. The bill requires the Board of Medical Examiners to submit to the Legislature an annual report on licensing activity by the Board during the immediately preceding year. The report must contain certain information related to applicants for licensure by endorsement who are members of the Armed Forces of the United States, spouses of such members and veterans and surviving spouses of deceased veterans. Additionally, the bill requires a new member appointed to the Nevada Physical Therapy Board to attend training provided by the Office of the Attorney General. Senate Bill No. 128 also authorizes the State Barbers' Health and Sanitation Board to issue provisional licenses as a barber instructor to persons who meet certain requirements. Finally, the bill requires the State Board of Cosmetology to adopt regulations to issue an endorsement to authorize a licensed cosmetologist or a licensed hair designer to render

shaving services. Provisions relating to the provisional license as a barber instructor are effective upon passage and approval.

Provisions relating to the Board of Medical Examiners, Nevada Physical Therapy Board and the State Board of Cosmetology are effective on July 1, 2019. Provisions relating to certified public accounting firms are effective upon passage and approval for the purposes of adopting any regulations and performing other administrative tasks, and on January 1, 2020, for all other purposes.

SENATOR KIECKHEFER:

Are the newly amended sections related to barbering that were added to the bill additional barriers people will have to go through to practice their trade?

SENATOR SPEARMAN:

In regards to cosmetologists, the training requirements and how many hours are required will be identified for the additional endorsement. Everything for the Barbers' Board certification remains the same.

SENATOR KIECKHEFER:

I was under the impression that section 4.05 of the bill in its amended form is related to barbering and not cosmetology, and it apparently creates a series of new steps people would need to go through and adds certain other requirements such as possession of a high school diploma in order to become an instructor in barbering. I have concerns about putting up additional hurdles for people working in this State. Are these new requirements? They appear to be new to statute.

SENATOR SPEARMAN:

They are not necessarily new to statute. This is clarifying legislation. With the exception of enhancing the scope of practice for cosmetologists, everything remains the same. It is a good bill, and I hope you will vote for it.

Senator Settelmeyer disclosed that his wife is a cosmetologist.

Roll call on Senate Bill No. 128:

YEAS—20.

NAYS—Kieckhefer.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 129.

Bill read third time.

Remarks by Senator Ohrenschall.

Senate Bill No. 129 makes various changes to the administrative functions and procedural operations of the Nevada Commission on Ethics. The measure addresses matters relating to requests for advisory opinions, ethics complaints, "cooling off" periods and ethical standards of conduct. In addition, Senate Bill No. 129 amends provisions relating to the legal defense of public officers to include all levels of government; addresses forms issued by the Commission; clarifies the application of Nevada's Open Meeting Law in Commission activities, and addresses the jurisdiction of Nevada Legislators.

With regard to advisory opinion requests, Senate Bill No. 129 allows a special or local ethics committee or agency legal counsel to seek advisory opinions. The Ethics Commission may seek additional information from State or local agency legal counsel regarding such requests and retain the confidentiality of the subject. The measure sets a two-year statute of limitations for past conduct and clarifies the scope of waivers of confidentiality to opinions, information and hearing transcripts. In addition, Senate Bill No. 129 makes distinctions between issuing a decision versus a written opinion and provides extra time to the Commission for issuing written opinions. The measure clarifies certain materials and hearings are confidential and exempt from the Open

Meeting Law; however, the Commission may hold an open hearing upon the waiver of confidentiality and must take final action on an ethics complaint in a public meeting.

The measure makes a number of changes regarding the filing of ethics complaints, including permitting certain extensions for investigations and issuing opinions, setting forth the circumstances under which a complaint may be dismissed, and clarifying the issuance of a decision versus a written opinion. Senate Bill No. 129 clarifies the participation of a subject in an investigation and enhances the protections of the identity of persons who file an ethics complaint, including when they serve as witnesses. The measure eliminates the distinction between an ethics violation versus a willful violation and, instead, provides that the Commission will evaluate the seriousness of a violation to determine certain penalties and sanctions. Senate Bill No. 129 establishes new, and amends existing, standards of conduct relating to cooling-off provisions, the abuse of power or authority, misuse of government resources, improper influence, disclosures and abstentions, government contracts and honoraria.

The measure makes various administrative changes to the Commission on Ethics, including: setting forth the duties of the Chair and Vice Chair; requiring the Executive Director to be a licensed attorney in Nevada; clarifying the role of review panels, and providing that published Commission opinions are deemed to be administrative, persuasive precedent for future cases and not ad hoc rulemaking.

Finally, Senate Bill No. 129 authorizes the Commission to conduct preliminary investigations and refer a matter or file a complaint against a State Legislator in the Legislators' respective ethics committee for conduct determined not to be within the jurisdiction of the Commission.

Roll call on Senate Bill No. 129:

YEAS—21.

NAYS—None.

Senate Bill No. 129 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 187.

Bill read third time.

Remarks by Senator Pickard.

Senate Bill No. 187 revises provisions for prescribing or dispensing an initial prescription for controlled substances listed in Schedule II, III or IV by a dentist, optometrist or physician. The bill authorizes a dentist or optometrist, when prescribing a controlled substance for the treatment of acute pain for less than seven days, to forgo a review of the patient's entire medical records and instead conduct a physical examination within the scope of practice of the practitioner and to the extent deemed appropriate by the practitioner. A physician prescribing a controlled substance for the treatment of pain for less than 14 days must conduct a physical examination of the patient within the scope of practice of the physician and to the extent deemed appropriate by the physician and may forgo a review of the patient's medical records. Additionally, Senate Bill No. 187 authorizes a physician to renew a prescription for any length of time if the physician determines that the renewal is medically appropriate. Finally, the bill requires a practitioner to review a patient utilization report under the Nevada Prescription Monitoring Program when conducting an evaluation and risk assessment of a patient before issuing an initial prescription for a controlled substance.

Roll call on Senate Bill No. 187:

YEAS—21.

NAYS—None.

Senate Bill No. 187 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 192.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 192 establishes the minimum level of health benefits an employer must make available to an employee and his or her dependents in order to determine whether the employer can pay the lower minimum wage established in the Nevada Constitution. In addition, the bill requires a hospital to provide notice of a patient's right to 1) make a complaint to certain persons and entities and 2) designate a caregiver to whom the hospital must provide instructions concerning aftercare.

This measure is effective upon passage and approval for the purposes of adopting regulations and performing other administrative tasks, and on January 1, 2020, for all other purposes. Provisions related to the minimum wage that may be paid per hour to an employee in private employment pursuant to Section 16 of Article 15 of the Nevada Constitution, if the employer provides health benefits, expire by limitation on November 24, 2020, if the provisions of Senate Joint Resolution No. 6 of the 79th Session of the Nevada Legislature are agreed to and passed by the 2019 Legislature and approved and ratified by the voters at the 2020 General Election.

This is a very good bill because we do have people who receive lower wages as mandated by the Constitution, and many of them are privy to insurance policies that actually do nothing. This bill will clarify what is codified in State statute and protect our workers.

Roll call on Senate Bill No. 192:

YEAS—21.

NAYS—None.

Senate Bill No. 192 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 199.

Bill read third time.

Remarks by Senator Scheible.

Senate Bill No. 199 requires a county assessor to transmit a report every 30 business days to a county treasurer regarding each change in ownership of any residential real property.

Roll call on Senate Bill No. 199:

YEAS—21.

NAYS—None.

Senate Bill No. 199 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 200.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 200 requires health insurers, including Medicaid and the Children's Health Insurance Program, to cover certain services and hearing devices such as ear molds, batteries, retention accessories and personal frequency modulated services for insured individuals who are younger than 18 years of age. This bill is effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, and on January 1, 2020, for all other purposes.

Roll call on Senate Bill No. 200:
YEAS—21.
NAYS—None.

Senate Bill No. 200 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 203.
Bill read third time.
Remarks by Senator Spearman.

Senate Bill No. 203 revises provisions governing programs for children who are blind, visually impaired, deaf or hard of hearing. The bill authorizes the Director of the Department of Health and Human Services to establish a program to negotiate discounts and rebates for hearing devices and related costs for children in Nevada who are deaf or hard of hearing.

In addition, Senate Bill No. 203 requires the Aging and Disability Services Division of the Department to develop and administer a program whereby any child under 13 years of age who is hard of hearing may apply to obtain a hearing aid at no charge if the child resides in a home with a household income that is at or below 400 percent of the federal poverty level and does not have insurance coverage for hearing aids. Applications must be awarded to the extent that money is available, in the order in which they are received.

The bill requires the Superintendent of Public Instruction to establish the Advisory Committee on Language Development for Children Who Are Deaf, Hard of Hearing, Blind or Visually Impaired or Deaf-Blind which must recommend to the State Board of Education criteria for the development of language and literacy skills by children who are less than six years of age and are deaf, hard of hearing, blind, visually impaired or deaf-blind. The criteria must be used in Individualized Education Programs prescribing special education and Individualized Family Service Plans prescribing early intervention services for such children.

The bill also requires the Legislative Commission to appoint a committee of Legislators to conduct an interim study of the feasibility of establishing a public school for pupils who are blind, visually impaired, deaf or hard of hearing.

Provisions related to the programs to negotiate discounts and rebates for hearing devices and provide hearing aids to children under 13 years of age are effective upon passage and approval for the purposes of adopting regulations and performing other administrative tasks, and on January 1, 2020, for all other purposes. Provisions related to developing Individualized Family Service Plans and Individual Education Programs for children who are deaf, hard of hearing, blind or visually impaired, are effective on July 1, 2020, and all other provisions are effective upon passage and approval. I urge your support.

Roll call on Senate Bill No. 203:
YEAS—21.
NAYS—None.

Senate Bill No. 203 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 220.
Bill read third time.
Remarks by Senator Cannizzaro.

Senate Bill No. 220 prohibits an operator of an Internet website or online service from selling certain personally-identifiable information collected from a consumer, if a consumer submits a verified request to the operator directing the operator not to sell such information. The bill requires an operator to respond to a customer's verified request with 60 days of receipt. Additionally, the

bill authorizes the Attorney General to seek an injunction or a civil penalty against an operator who violates these provisions. Finally, the bill excludes from the definition of "operator" certain financial institutions and entities that are subject to certain federal laws concerning privacy and certain persons who manufacture, service or repair motor vehicles.

Roll call on Senate Bill No. 220:
YEAS—21.
NAYS—None.

Senate Bill No. 220 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 238.

Bill read third time.

The following amendment was proposed by Senator Cancela:

Amendment No. 629.

SUMMARY—Revises provisions relating to marijuana. (BDR 32-133)

AN ACT relating to marijuana; authorizing the transfer of a medical marijuana establishment registration certificate and a license to operate a marijuana establishment in certain circumstances; revising provisions relating to inventory control systems; prohibiting the use of a third party by a medical marijuana dispensary or retail marijuana store to sell marijuana and related products; establishing requirements relating to the delivery of marijuana and related products to a consumer; ~~[requiring]~~ authorizing the Attorney General to perform a study relating to the unlicensed sale of marijuana and related products in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department to transfer a medical marijuana establishment registration certificate to a party acquiring ownership of a medical marijuana establishment and requires the Department to provide by regulation for the transfer of a license to operate a marijuana establishment. (NRS 453A.334, 453D.200) Sections 10 and 15 of this bill provide for the transfer of a medical marijuana establishment registration certificate and a license to operate a marijuana establishment in certain additional circumstances.

Existing law requires a medical marijuana establishment to maintain an inventory control system and requires a marijuana establishment to package and label marijuana products in a manner that allows tracking by way of an inventory control system. (NRS 453A.356, 453D.310) Sections 11 and 17 of this bill allow a dual licensee to combine the inventory of its medical marijuana establishments and marijuana establishments for the purpose of maintaining its inventory control system and require a dual licensee to designate a sale to be pursuant to either existing law relating to medical marijuana or existing law relating to adult-use marijuana at the point of sale.

Existing law establishes certain requirements for the operation of a medical marijuana dispensary or a retail marijuana store. (NRS 453A.358, 453D.310)

Sections 12 and 17 of this bill prohibit a medical marijuana dispensary or retail marijuana store from selling marijuana or related products through, or accepting a sale from, any business that does not hold a medical marijuana establishment registration certificate or license to operate a marijuana establishment. Sections 12 and 17 also authorize a medical marijuana dispensary or retail marijuana store to contract with a third party for delivery to consumers in certain circumstances. Sections 12 and 17 prohibit any person who does not hold a medical marijuana establishment registration certificate or a license to operate a marijuana establishment from: (1) advertising the sale of marijuana or related products by the person; (2) selling, offering to sell or appearing to sell marijuana or related products; or (3) allowing the submission of an order for marijuana or related products.

Existing law authorizes a medical marijuana establishment to transport medical marijuana in certain circumstances. (NRS 453A.362) Section 13 of this bill prohibits a medical marijuana dispensary from transporting marijuana and related products to a person unless: (1) the person holds a valid registry identification card or letter of approval; (2) the transportation is performed by a person who holds a valid medical marijuana establishment agent registration card and is employed by the medical marijuana dispensary or an independent contractor who contracted with the medical marijuana dispensary; and (3) the name of the medical marijuana dispensary and each independent contractor who transports marijuana and related products for the medical marijuana dispensary are published on the Internet website maintained by the Department. Section 17 prohibits a retail marijuana store from delivering marijuana and related products to a consumer using an independent contractor unless the name of the retail marijuana store and each independent contractor who transports marijuana and related products for the retail marijuana store are published on the Internet website maintained by the Department.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 372A.290 is hereby amended to read as follows:

372A.290 1. An excise tax is hereby imposed on each wholesale sale in this State of marijuana by a cultivation facility to another medical marijuana establishment at the rate of 15 percent of the fair market value at wholesale of the marijuana. The excise tax imposed pursuant to this subsection is the obligation of the cultivation facility.

2. An excise tax is hereby imposed on each retail sale in this State of marijuana or marijuana products by a retail marijuana store at the rate of 10 percent of the sales price of the marijuana or marijuana products. The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the retail marijuana store.

(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property.

3. The revenues collected from the excise tax imposed pursuant to subsection 1 must be distributed:

(a) To the Department and to local governments in an amount determined to be necessary by the Department to pay the costs of the Department and local governments in carrying out the provisions of chapter 453A of NRS; and

(b) If any money remains after the revenues are distributed pursuant to paragraph (a), to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

4. For the purpose of subsection 3 and NRS 453D.510, a total amount of $5,000,000 of the revenues collected from the excise tax imposed pursuant to subsection 1 and the excise tax imposed pursuant to NRS 453D.500 in each fiscal year shall be deemed sufficient to pay the costs of all local governments to carry out the provisions of chapters 453A and 453D of NRS. The Department shall, by regulation, determine the manner in which local governments may be reimbursed for the costs of carrying out the provisions of chapters 453A and 453D of NRS.

5. The revenues collected from the excise tax imposed pursuant to subsection 2 must be paid over as collected to the State Treasurer to be deposited to the credit of the Account to Stabilize the Operation of the State Government created in the State General Fund pursuant to NRS 353.288.

6. As used in this section:

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

(b) "Marijuana products" ~~[has the meaning ascribed to it in NRS 453D.030.]~~ *means any product sold by a retail marijuana store which contains marijuana or an extract thereof.*

(c) "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 453A.334 is hereby amended to read as follows:

453A.334 1. ~~[Except as otherwise provided in subsection 2, the following are nontransferable:~~

~~(a)]~~ A medical marijuana establishment agent registration card ~~[.~~

~~(b) A medical marijuana establishment registration certificate.]~~ *is nontransferable.*

2. ~~[A]~~ *Except as otherwise provided in subsection 3, a* medical marijuana establishment may, upon submission of a statement signed by a person authorized to submit such a statement by the governing documents of the medical marijuana establishment, transfer *its medical marijuana establishment registration certificate or* all or any portion of its ownership to another party,

and the Department shall transfer the medical marijuana establishment registration certificate issued to the establishment to the party acquiring *the medical marijuana establishment registration certificate or* ownership, if the party who will acquire the *medical marijuana establishment registration certificate or* ownership of the medical marijuana establishment submits:

(a) If the party will acquire the entirety of the ownership interest in the medical marijuana establishment, evidence satisfactory to the Department that the party has complied with the provisions of sub-subparagraph (III) of subparagraph (2) of paragraph (a) of subsection 3 of NRS 453A.322 for the purpose of operating the medical marijuana establishment.

(b) For the party and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(c) Proof satisfactory to the Department that, as a result of the transfer of *the medical marijuana establishment registration certificate or* ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one medical marijuana establishment registration certificate or more than 10 percent of the medical marijuana establishment registration certificates allocated to the county, whichever is greater.

3. A medical marijuana establishment that transfers its medical marijuana registration certificate to another party without transferring any portion of its ownership shall comply with all laws or regulations of this State relating to the sale of a license, registration or other permit to conduct business. Any transfer of a medical marijuana registration certificate in violation of this subsection is void.

Sec. 11. NRS 453A.356 is hereby amended to read as follows:

453A.356 1. Each medical marijuana establishment, in consultation with the Department, shall maintain an inventory control system.

2. The inventory control system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card and, if any, the

quantity of edible marijuana products or marijuana-infused products sold, measured both by weight and potency; and

(d) Such other information as the Department may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an inventory control system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

5. If a medical marijuana establishment is operated by a dual licensee, the medical marijuana establishment may:

(a) For the purpose of tracking medical marijuana, maintain a combined inventory with a marijuana establishment operated by the dual licensee; and

(b) For the purpose of reporting on the inventory of the medical marijuana establishment, maintain a combined inventory with a marijuana establishment operated by the dual licensee and report the combined inventory under a single medical marijuana establishment registration certificate or license to operate a marijuana establishment.

6. If a medical marijuana establishment is operated by a dual licensee, the medical marijuana establishment shall:

(a) For the purpose of reporting on the sales of any medical marijuana establishment or marijuana establishment operated by the dual licensee, designate each sale as a sale pursuant to the provisions of this chapter or chapter 453D of NRS in its inventory control system at the point of sale; and

(b) Verify that each person who purchases marijuana, edible marijuana products or marijuana-infused products in a sale designated as a sale pursuant to the provisions of this chapter holds a valid registry identification card.

7. As used in this section:

(a) "Dual licensee" has the meaning ascribed to it in NRS 453D.030.

(b) "Marijuana establishment" has the meaning ascribed to it in NRS 453D.030.

Sec. 12. NRS 453A.358 is hereby amended to read as follows:

453A.358 1. Each medical marijuana dispensary shall ensure all of the following:

(a) The weight, concentration and content of THC in all marijuana, edible marijuana products and marijuana-infused products that the dispensary sells is clearly and accurately stated on the product sold.

(b) That the dispensary does not sell to a person, in any one transaction, more than 1 ounce of marijuana.

(c) That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

(d) That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

(e) That only persons who are at least 21 years of age or hold a registry identification card or letter of approval are allowed to enter the premises of the medical marijuana dispensary.

2. A medical marijuana dispensary may, but is not required to, track the purchases of marijuana for medical purposes by any person to ensure that the person does not exceed the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200. The Department shall not adopt a regulation or in any other way require a medical marijuana dispensary to track the purchases of a person or determine whether the person has exceeded the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.

3. A medical marijuana dispensary which is a dual licensee, as defined in NRS 453D.030, may, to the extent authorized by the regulations adopted by the Department pursuant to paragraph (k) of subsection 1 of NRS 453D.200, allow any person who is at least 21 years of age to enter the premises of the medical marijuana dispensary, regardless of whether such a person holds a valid registry identification card or letter of approval.

4. A medical marijuana dispensary shall not sell marijuana, edible marijuana products or marijuana-infused products to a consumer through the use of, or accept a sale of marijuana, edible marijuana products or marijuana-infused products from, a third party, intermediary business, broker or any other business that does not hold a medical marijuana establishment registration certificate for a medical marijuana dispensary.

5. A medical marijuana dispensary may contract with a third party or intermediary business to deliver marijuana, edible marijuana products or marijuana-infused products to consumers only if:

(a) Every sale of marijuana, edible marijuana products or marijuana-infused products which is delivered by the third party or intermediary business is made directly from the medical marijuana dispensary or an Internet website, digital network or software application service of the medical marijuana dispensary; and

(b) The third party or intermediary business does not advertise that it sells, offers to sell or appears to sell marijuana, edible marijuana products or marijuana-infused products or allows the submission of an order for marijuana, edible marijuana products or marijuana-infused products.

6. Except as otherwise provided in chapter 453D of NRS, a person shall not:

(a) Advertise the sale of marijuana, edible marijuana products or marijuana-infused products by the person; or

(b) Sell, offer to sell or appear to sell marijuana, edible marijuana products or marijuana-infused products or allow the submission of an order for marijuana, edible marijuana products or marijuana-infused products,

➥ *unless the person holds a medical marijuana establishment registration certificate.*

Sec. 13. NRS 453A.362 is hereby amended to read as follows:

453A.362 1. At each medical marijuana establishment, medical marijuana must be stored only in an enclosed, locked facility.

2. Except as otherwise provided in subsection 3, at each medical marijuana dispensary, medical marijuana must be stored in a secure, locked device, display case, cabinet or room within the enclosed, locked facility. The secure, locked device, display case, cabinet or room must be protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.

3. At a medical marijuana dispensary, medical marijuana may be removed from the secure setting described in subsection 2:

(a) Only for the purpose of dispensing the marijuana;

(b) Only immediately before the marijuana is dispensed; and

(c) Only by a medical marijuana establishment agent who is employed by or volunteers at the dispensary.

4. A medical marijuana establishment may:

(a) Transport medical marijuana to another medical marijuana establishment or between the buildings of the medical marijuana establishment; ~~[and]~~

(b) Enter into a contract with a third party to transport medical marijuana to another medical marijuana establishment or between the buildings of the medical marijuana establishment ~~[.]~~ *; and*

(c) If the medical marijuana establishment is a medical marijuana dispensary and except as otherwise provided in subsection 5, transport, or enter into a contract with an independent contractor to transport, medical marijuana to a person who holds a valid registry identification card or letter of approval.

5. A medical marijuana dispensary shall not transport marijuana, edible marijuana products or marijuana-infused products to a person unless:

(a) The person holds a valid registry identification card or letter of approval;

(b) The transportation is performed by a medical marijuana establishment agent who holds a valid medical marijuana establishment agent registration card and is employed by the medical marijuana dispensary or the independent contractor with which the medical marijuana dispensary entered into a contract; and

(c) The name of the medical marijuana dispensary and the name of each independent contractor with which the medical marijuana dispensary has entered into a contract to transport marijuana, edible marijuana products or marijuana-infused products to persons who hold a valid registry identification

card or letter of approval has been published on the Internet website of the Department.

Sec. 14. Chapter 453D of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.

Sec. 15. *1. Except as otherwise provided in subsection 2, a marijuana establishment may, upon submission of a statement signed by a person authorized to submit such a statement by the governing documents of the marijuana establishment, transfer its license or all or any portion of its ownership to another party, and the Department shall transfer the license issued to the establishment to the party acquiring the license or ownership, if the party who will acquire the license or ownership of the marijuana establishment submits, for the party and each person who is proposed to be an owner, officer or board member of the proposed marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the Department 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. A marijuana establishment that transfers its license to another party without transferring any portion of its ownership shall comply with all laws or regulations of this State relating to the sale of a license, registration or other permit to conduct business. Any transfer of a license in violation of this subsection is void.

Sec. 16. (Deleted by amendment.)

Sec. 17. NRS 453D.310 is hereby amended to read as follows:

453D.310 1. Each retail marijuana store and marijuana product manufacturing facility shall, in consultation with the Department, cooperate to ensure that all marijuana products offered for sale:

(a) Are labeled clearly and unambiguously:

(1) As marijuana with the words "THIS IS A MARIJUANA PRODUCT" in bold type; and

(2) As required by this chapter and any regulations adopted pursuant thereto.

(b) Are not presented in packaging that contains an image of a cartoon character, mascot, action figure, balloon or toy, except that such an item may appear in the logo of the marijuana product manufacturing facility which produced the product.

(c) Are regulated and sold on the basis of the concentration of THC in the products and not by weight.

(d) Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

(e) Are not packaged and labeled in a manner which is modeled after a brand of products primarily consumed by or marketed to children.

(f) Are labeled in a manner which indicates the number of servings of THC in the product, measured in servings of a maximum of 10 milligrams

per serving, and includes a statement that the product contains marijuana and its potency was tested with an allowable variance of the amount determined by the Department by regulation.

(g) Are not labeled or marketed as candy.

2. A marijuana product must be sold in a single package. A single package must not contain:

(a) For a marijuana product sold as a capsule, more than 100 milligrams of THC per capsule or more than 800 milligrams of THC per package.

(b) For a marijuana product sold as a tincture, more than 800 milligrams of THC.

(c) For a marijuana product sold as a food product, more than 100 milligrams of THC.

(d) For a marijuana product sold as a topical product, a concentration of more than 6 percent THC or more than 800 milligrams of THC per package.

(e) For a marijuana product sold as a suppository or transdermal patch, more than 100 milligrams of THC per suppository or transdermal patch or more than 800 milligrams of THC per package.

(f) For any other marijuana product, more than 800 milligrams of THC.

3. A marijuana product manufacturing facility shall not produce marijuana products in any form that:

(a) Is or appears to be a lollipop or ice cream.

(b) Bears the likeness or contains characteristics of a real or fictional person, animal or fruit, including, without limitation, a caricature, cartoon or artistic rendering.

(c) Is modeled after a brand of products primarily consumed by or marketed to children.

(d) Is made by applying concentrated marijuana to a commercially available candy or snack food item other than dried fruit, nuts or granola.

4. A marijuana product manufacturing facility shall:

(a) Seal any marijuana product that consists of cookies or brownies in a bag or other container which is not transparent.

(b) Affix a label to each marijuana product intended for human consumption by oral ingestion which includes, without limitation, in a manner which must not mislead consumers, the following information:

(1) The words "Keep out of reach of children";

(2) A list of all ingredients used in the marijuana product;

(3) A list of all allergens in the marijuana product; and

(4) The total weight of marijuana contained in the marijuana product or an equivalent measure of THC concentration.

(c) Maintain a washing area with hot water, soap and a hand dryer or disposable towels which is located away from any area in which marijuana products intended for human consumption by oral ingestion are cooked or otherwise prepared.

(d) Require each person who handles marijuana products intended for human consumption by oral ingestion to wear a hair net and clean clothing and keep his or her fingernails neatly trimmed.

(e) Package all marijuana products produced by the marijuana product manufacturing facility on the premises of the marijuana product manufacturing facility.

5. A retail marijuana store or marijuana product manufacturing facility shall not engage in advertising that in any way makes marijuana or marijuana products appeal to children, including, without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit or toy.

6. Each retail marijuana store shall offer for sale containers for the storage of marijuana and marijuana products which lock and are designed to prohibit children from unlocking and opening the container.

7. A retail marijuana store shall:

(a) Include a written notification with each sale of marijuana or marijuana products which advises the purchaser:

(1) To keep marijuana and marijuana products out of the reach of children;

(2) That marijuana and marijuana products can cause severe illness in children;

(3) That allowing children to ingest marijuana or marijuana products, or storing marijuana or marijuana products in a location which is accessible to children may result in an investigation by an agency which provides child welfare services or criminal prosecution for child abuse or neglect;

(4) That the intoxicating effects of marijuana products may be delayed by 2 hours or more and users of marijuana products should initially ingest a small amount of the product, then wait at least 120 minutes before ingesting any additional amount of the product;

(5) That pregnant women should consult with a physician before ingesting marijuana or marijuana products;

(6) That ingesting marijuana or marijuana products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and that a person should consult with a physician before doing so;

(7) That marijuana or marijuana products can impair concentration, coordination and judgment and a person should not operate a motor vehicle while under the influence of marijuana or marijuana products; and

(8) That ingestion of any amount of marijuana or marijuana products before driving may result in criminal prosecution for driving under the influence.

(b) Enclose all marijuana and marijuana products in opaque, child-resistant packaging upon sale.

8. If the health authority, as defined in NRS 446.050, where a marijuana product manufacturing facility or retail marijuana store which sells marijuana products intended for human consumption by oral ingestion is located requires

persons who handle food at a food establishment to obtain certification, the marijuana product manufacturing facility or retail marijuana store shall ensure that at least one employee maintains such certification.

9. A marijuana establishment:

(a) Shall not engage in advertising which contains any statement or illustration that:

(1) Is false or misleading;

(2) Promotes overconsumption of marijuana or marijuana products;

(3) Depicts the actual consumption of marijuana or marijuana products; or

(4) Depicts a child or other person who is less than 21 years of age consuming marijuana or marijuana products or objects suggesting the presence of a child, including, without limitation, toys, characters or cartoons, or contains any other depiction which is designed in any manner to be appealing to or encourage consumption of marijuana or marijuana products by a person who is less than 21 years of age.

(b) Shall not advertise in any publication or on radio, television or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be persons who are less than 21 years of age.

(c) Shall not place an advertisement:

(1) Within 1,000 feet of a public or private school, playground, public park or library, but may maintain such an advertisement if it was initially placed before the school, playground, public park or library was located within 1,000 feet of the location of the advertisement;

(2) On or inside of a motor vehicle used for public transportation or any shelter for public transportation; or

(3) At a sports or entertainment event to which persons who are less than 21 years of age are allowed entry.

(d) Shall not advertise or offer any marijuana or marijuana product as "free" or "donated" without a purchase.

(e) Shall ensure that all advertising by the marijuana establishment contains such warnings as may be prescribed by the Department, which must include, without limitation, the following words:

(1) "Keep out of reach of children"; and

(2) "For use only by adults 21 years of age and older."

10. Nothing in subsection 9 shall be construed to prohibit a local government, pursuant to chapter 244, 268 or 278 of NRS, from adopting an ordinance for the regulation of advertising relating to marijuana which is more restrictive than the provisions of subsection 9 relating to:

(a) The number, location and size of signs, including, without limitation, any signs carried or displayed by a natural person;

(b) Handbills, pamphlets, cards or other types of advertisements that are distributed, excluding an advertisement placed in a newspaper of general circulation, trade publication or other form of print media; and

(c) Any stationary or moving display that is located on or near the premises of a marijuana establishment.

11. If a marijuana establishment is operated by a dual licensee, the marijuana establishment may:

(a) For the purpose of tracking marijuana, ~~[combine the]~~ maintain a combined inventory ~~[of the marijuana establishment]~~ with ~~[the inventory of any other]~~ a medical marijuana establishment ~~[or marijuana establishment]~~ operated by the dual licensee; and

(b) For the purpose of reporting on the inventory of the marijuana establishment, ~~[combine the]~~ maintain a combined inventory ~~[of the marijuana establishment]~~ with ~~[the inventory of any other]~~ a medical marijuana establishment ~~[or marijuana establishment]~~ operated by the dual licensee and report ~~[all such]~~ the combined inventory under a single ~~[entity; and~~

~~(c)]~~ medical marijuana establishment registration certificate or license to operate a marijuana establishment.

12. If a marijuana establishment is operated by a dual licensee, the marijuana establishment shall:

(a) For the purpose of reporting on the sales of any medical marijuana establishment or marijuana establishment operated by the dual licensee, designate each sale as a sale pursuant to the provisions of this chapter or chapter 453A of NRS in its inventory control system at the point of sale ~~[.]~~ ; and

(b) Verify that each person who purchases marijuana, edible marijuana products or marijuana-infused products in a sale designated as a sale pursuant to the provisions of chapter 453A of NRS holds a valid registry identification card.

~~[12.]~~ 13. A retail marijuana store shall not sell marijuana or marijuana products to a consumer through the use of, or accept a sale of marijuana or marijuana products from, a third party, intermediary business, broker or any other business that does not hold a license for a retail marijuana store.

~~[13.]~~ 14. A retail marijuana store may contract with a third party or intermediary business to deliver marijuana or marijuana products to consumers only if:

(a) Every sale of marijuana or marijuana products which is delivered by the third party or intermediary business is made directly from the retail marijuana store or an Internet website, digital network or software application service of the retail marijuana store;

(b) The third party or intermediary business does not advertise that it sells, offers to sell or appears to sell marijuana or marijuana products or allows the submission of an order for marijuana or marijuana products; and

(c) In addition to any other requirements imposed by the Department by regulation, the name of the retail marijuana store and all independent contractors who perform deliveries on behalf of the retail marijuana store has been published on the Internet website of the Department.

~~[14.]~~ *15. Except as otherwise provided in chapter 453A of NRS, a person shall not:*

(a) Advertise the sale of marijuana or marijuana products by the person; or

(b) Sell, offer to sell or appear to sell marijuana or marijuana products or allow the submission of an order for marijuana or marijuana products,

unless the person holds a license to operate a marijuana establishment.

~~[15.]~~ *16. As used in this section ~~[, "medical]~~ :*

(a) "Edible marijuana products" has the meaning ascribed to it in NRS 453A.101.

(b) "Marijuana-infused products" has the meaning ascribed to it in NRS 453A.112.

(c) "Medical marijuana establishment" has the meaning ascribed to it in NRS 453A.116.

(d) "Registry identification card" has the meaning ascribed to it in NRS 453A.140.

Sec. 17.5. 1. The Attorney General ~~[shall]~~ may conduct a study regarding the unlicensed sale of marijuana and products containing marijuana. ~~[As part of the]~~ If the Attorney General conducts such a study, the Attorney General shall:

(a) Review the legal authority of state agencies and local governments to curtail the unlicensed sale of marijuana and products containing marijuana, including, without limitation, by use of websites, sales centers or other buildings to evade the laws of this State relating to the registration of medical marijuana establishments and the licensing of marijuana establishments.

(b) Review the resources available to state agencies and local governments to prevent the unlicensed sale of marijuana and products containing marijuana.

(c) Examine gaps in the enforcement of the laws of this State, including, without limitation, the importation of marijuana and products containing marijuana from other states.

(d) Identify the extent of the unlicensed sale of marijuana and products containing marijuana in this State, including, without limitation, the number of operations engaging in the unlicensed sale of marijuana and products containing marijuana and the most common methods used to engage in such sales.

(e) Examine any other issues relating to the unlicensed sale of marijuana that the Attorney General determines to be appropriate.

2. ~~[On]~~ If the Attorney General conducts a study pursuant to subsection 1, on or before February 1, 2021, the Attorney General shall report his or her findings, including, without limitation, any recommendations for legislation, to the Governor and the Director of the Legislative Counsel Bureau for transmission to the 81st Session of the Nevada Legislature. The report shall include, without limitation:

(a) Recommendations for efficiently and effectively closing any gaps in legal authority or enforcement identified by the Attorney General; and

(b) Identification of any money that may be necessary to carry out the recommendations of the Attorney General.

Sec. 18. 1. This section becomes effective upon passage and approval.

2. Section 17.5 of this act becomes effective on July 1, 2019.

3. Sections 2 to 17, inclusive, of this act become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and on January 2, 2020, for all other purposes.

Senator Cancela moved the adoption of the amendment.

Remarks by Senator Cancela.

Amendment No. 629 does two things to Senate Bill No. 238. The first relates to the original amendment language which applied to section 11, subsection 5, which deals with medical marijuana, but did not apply the same language to section 17, subsubsection 11, which deals with recreational marijuana. The amendment makes that change. The second allows for the Attorney General's study to be permissive rather than mandated. Under the current regulatory structure, this may become a duplicative effort, and we want to prevent that as much as possible.

Conflict of interest declared by Senator Ohrenschall.

Amendment adopted.

Senator Woodhouse moved that the bill be re-referred to the Committee on Finance, upon return from reprint.

Bill ordered reprinted, re-engrossed and to the Committee on Finance.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved that Senate Bill No. 243 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

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

Motion carried.

Senate in recess at 1:37 p.m.

SENATE IN SESSION

At 4:32 p.m.

President Marshall presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 253.

Bill read third time.

Remarks by Senator Goicoechea.

Senate Bill No. 253 authorizes the suspension and admonition of a licensed employee of a school district for a reason that the administrator believes may lead to demotion or dismissal. The bill changes from not later than five days to not later than ten days the time a school district superintendent has to begin dismissal proceedings after a suspension becomes effective. The bill removes the requirement that the superintendent initiate proceedings for the dismissal of an

employee charged, but not convicted of a crime, and instead requires the superintendent to offer such an employee the opportunity for an informal hearing concerning the continuation of the suspension within ten days after the employee receives notice of the suspension. The bill is effective upon passage and approval.

This is a good compromise bill between the school districts and the Nevada State Education Association. It deals with suspending a professional employee over issues dealing with morality when they are probably better removed from the school.

Roll call on Senate Bill No. 253:

YEAS—21.

NAYS—None.

Senate Bill No. 253 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 256.

Bill read third time.

Remarks by Senators Cancela, Settelmeyer and Pickard.

SENATOR CANCELA:

Senate Bill No. 256 has taken quite the journey through our Chamber. The bill before you is one that received a lot of stakeholder input and shows incremental progress toward evening out the playing field between landlords and tenants.

The bill authorizes a tenant upon termination of a rental agreement to request an initial inspection of the premises by the landlord so that together they can take stock of what is now wrong with the property, and the tenant can have the opportunity to remedy any deficiency that may cause a deduction in the security deposit or surety bond, unless there is damage where a licensed professional would be required. This is beneficial to the tenant because they can insure they can get more of their security deposit back. It is beneficial to the landlord because they no longer have to contract out this work or do it themselves, instead the tenant does it.

A landlord must return the security deposit within 21 days after the termination of the tenancy. The bill provides that a payment from the tenant must first be applied to outstanding rent, unless any lease agreement contains contrary provisions or the tenant requests otherwise. The intent of this provision is to ensure bad-acting landlords do not abuse the privilege of putting late fees on rent payments or charge fees for other issues and use these to generate additional income above what the rent would be in. This happens in the field all the time and clarifying the language in statute prevents that from happening so tenants can make their payments and pay the fees they may owe. This does not change the way in which a landlord can evict a tenant.

Additionally, the bill authorizes a tenant to recover damages from a landlord who has failed to maintain the dwelling unit in a habitable condition without giving prior written notice to the landlord if the tenant proves to the court that the landlord had actual knowledge of the condition constituting the failure to maintain the dwelling unit in a habitable condition. The bill also authorizes a tenant to take certain actions, such as recovering immediate possession of the premises or terminating the rental agreement and recovering damages, if the landlord abuses the right of access to the dwelling unit or uses that right to harass the tenant. A landlord who repeatedly enters the premises at 1, 2 or 3:00 a.m. to fix a hole in the wall would be an example of the problem this is addressing.

Senate Bill No. 256 requires a landlord during the five-day period following the eviction or lockout of a tenant, to provide the former tenant a reasonable opportunity to retrieve essential personal effects from the premises. This could include things like breast milk, insulin, et cetera. The bill establishes an expedited procedure for a former tenant to retrieve essential personal effects if a landlord acts unreasonably in providing access to the former tenant.

Finally, a landlord is prohibited from refusing to accept rent under such circumstances if the refusal is based on the fact that the tenant has not paid any amount that does not constitute rent.

That speaks to the change in statute clarifying the difference between fees and rent. Overall, this is small progress that could make a real difference in the lives of tenants. I urge this Body's support.

SENATOR SETTELMEYER:

I appreciate some of the aspects of Senate Bill No. 256, but as testified to during Committee, there are many aspects of this bill I cannot support. One cannot determine the condition of a property until individuals move out; it is unrealistic. This bill is going to create an expectation that there are no damages to the property until, for example, furniture is moved that may have been covering up a problem on the carpet or pictures are removed from a wall that may have been used as a dart board. This has the potential to make tenants believe they are going to get back more of their deposit when in reality they may not. This is unreasonable.

In northern Nevada, we have found it difficult to find people to do the repairs within a 21-day period of time. When I call people to do work on my house if there is a problem, I often have to call three or four different individuals. If they can come within 14 days, I am lucky. This timeline is worse if it is a major job. The concept of getting rent back in 21 days is unrealistic.

I look at the concept in section 9; it says rent cannot be considered security deposits, service fees, notice fees, collection of fees, damages, costs to repairs, attorney's fees, late fees or other nonrefundable fees. This bill says all money has to go to pay rent first, and the only reason someone can be evicted is if they are not paying their rent. This creates an additional barrier for a landlord. Someone could be late on paying all these fees, yet, could still not be removed from a rental house because they are current on paying the rent. I find that problematic.

Section 15 talks about habitability and the ability of a tenant to go directly to the court without having notified the owner there is an issue with habitability. The landlord should be told at the same time as the court. Why allow someone to go to the court first?

Section 19 provides an expedited process for entering the house to get things such as medication, and I appreciate that. In section 22, it is discussed that there are five days being given to file a complaint and that the complaint has to be heard within another five days. The courts cannot work this quickly. They may work more quickly in the south, but up north, this is a problem. This will make it impossible for a landlord to evict a perpetually late tenant, because in section 9, we have changed the definition of "rent." This section also covers bad faith of the landlord. I would have liked to have seen bad faith of tenants covered as well because we have guilty actors on both sides. When we have these discussions, we should have both sides included so we can discuss it in a court of law. If a landlord acts in bad faith, we should also be able to discuss whether the tenant acted in bad faith. The degree of harm caused to a landlord is not discussed, but the degree of harm to a tenant is. This bill overall will have the effect of raising rent, raising deposits and will make things more unaffordable for individuals who are trying to rent. For those reasons, I will be voting "no" on this bill.

SENATOR PICKARD:

I have a couple of questions for the bill's sponsor. Having represented both tenants and landlords, I understand and appreciate where we are trying to go with this bill. My first question is about section 7, subsection 2, where it says: "Upon receipt of a request for an initial inspection pursuant to subsection 1, but not sooner than two weeks before the date of termination of the tenancy…" and then it goes on. How do we deal with a week-to-week tenancy? Many evictions come from week-to-week tenancies, and there are not two weeks to be had in these cases.

My next question is about subsection 4 in the same section. In this subsection, we allow the tenant to take actions necessary to remedy a deficiency. In many instances, we require qualified professionals to do this work. If the tenant is not qualified, does the landlord get to insist the work be done by a qualified professional? My final question has to do with section 10, subsection 4. If we eliminate late fees, how does the landlord cover the costs of notices and the extra effort that has to be taken to get the tenant to comply? How do we keep the landlords whole while protecting tenants?

SENATOR CANCELA:

In regards to unseen damages to property, the language in section 7, subsection 5(b), indicates a landlord may withhold any money from a security deposit for deficiencies not seen at the time of the inspection. This is meant to address the situation outlined by my colleague.

On the question of habitability before the court, the burden is placed on the tenant to prove the landlord had prior knowledge. If a tenant tells the landlord the roof is leaking and mold is developing, that is enough to say the landlord had prior knowledge. If the tenant said nothing, and there was no way for the landlord to know the roof was leaking and mold developing, the tenant would not have the ability in court to prove the landlord had prior knowledge. Today, the only way a tenant can prove a property is uninhabitable is to provide a written document to the landlord and give at least 14 days for the landlord to receive the document. That may still be in place, but sometimes, this is difficult because the landlord does not reside in Nevada. In those instances, the intent of this bill is to broaden the ability for a tenant to say a landlord knew there was a problem and did not act and therefore the tenant should receive damages for problems that occurred as a result.

Week-to-week tenancies do not have a lease or formal landlord-tenant agreement so are governed by a different chapter in statute. If there were week-to-week tenancies, the same process could be used, but the agreement between the landlord and the tenant would supersede the law and would assume the specifics of the situation of the week-to-week tenancy.

On the question of rent and late fees in section 9, because late fees are calculated as part of rent, landlords are now able to use late fees to increase rent prices, and the only recourse a tenant has is to be put into an eviction process where they have five days to contest those late fees if they are able to get before a court. More often than not, these late fees are stacked up and used to evict tenants. The problem today is a tenant has no recourse in this situation. By creating a difference between a fee and rent, this bill eliminates the ability for a landlord to do that, while still allowing for the punishment of bad actors, tenants who are not paying their rent on time. People will still be held to those fees and still be able to be evicted if they are not paying fees and/or rent. Rent will just not be able to be artificially increased by placing late fees on it. That is the intent of this language. It does not in any way prevent a landlord from taking on tenants who are not following the rules.

Roll call on Senate Bill No. 256:

YEAS—11.

NAYS—Cannizzaro, Dondero Loop, Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—10.

Senate Bill No. 256 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 300.

Bill read third time.

Remarks by Senator Brooks.

Senate Bill No. 300 requires the Public Utilities Commission of Nevada to adopt regulations establishing procedures for an electric utility to apply to the Commission for the approval of an alternative rate-making plan. The regulations must establish the alternative rate-making mechanisms that the utility is authorized to use to set rates during the time period of the plan.

The bill authorizes an electric utility to submit an application to the Commission to establish an alternative rate-making plan pursuant to the regulations adopted by the Commission. The Commission must approve or deny the application not later than 210 days after receiving the application. The Commission may extend the time for an electric utility to submit its next general rate application while an application for the approval of an alternative rate-making plan is pending before the Commission. Such an application may include a mechanism for earnings sharing with the customers of the utility, authorizing the filing of a complaint against the utility and a term or condition waiving the requirement for the utility to file a general rate application every 36 months.

Roll call on Senate Bill No. 300:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 315.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 315 makes various changes related to rare diseases and childhood cancer. Specifically, the bill creates the Rare Disease Advisory Council within the Department of Health and Human Services to study issues relating to the prevalence and treatment of rare diseases in Nevada. It also requires the Division of Public and Behavioral Health, Department of Health and Human Services, to include information regarding the importance of annual physical examinations for children by healthcare providers in appropriate public health programs and activities. It requires certain educational entities and health and physical education classes to provide similar information regarding the importance of annual physical examinations. It requires the Department of Motor Vehicles to design, prepare and issue special license plates to increase awareness of childhood cancer; the license plates must include the phrase "Cure Childhood Cancer" and requires certain health professional licensing boards to encourage physicians, physician assistants and advanced practice registered nurses to receive as part of their continuing medical education, training and education in the diagnosis of rare diseases.

Provisions relating to the Rare Disease Advisory Council are effective upon passage and approval. All other provisions are effective upon passage and approval for the purposes of adopting the regulations and performing other preparatory administrative tasks, and on January 1, 2020, for all other purposes. I would appreciate your support.

Roll call on Senate Bill No. 315:

YEAS—21.

NAYS—None.

Senate Bill No. 315 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 316.

Bill read third time.

Remarks by Senator Hansen.

Senate Bill No. 316 provides that it is a public nuisance for any person to prevent or obstruct free passage over any federal or State highway, county road, State land or public land by threat, intimidation, fencing, enclosure or by any other unlawful means or knowingly misrepresent the status of or assert any right to exclusive use and occupancy, if the person has no good-faith leasehold interest in or claim or color of title to such highway, road, State land or public land.

Roll call on Senate Bill No. 316:

YEAS—21.

NAYS—None.

Senate Bill No. 316 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 319.

Bill read third time.

Remarks by Senator Dondero Loop.

Senate Bill No. 319 establishes the duties of a counselor, psychologist and social worker employed by a school district. A school district is required to add 5 percent to the base salary of these professionals and those employed as an audiologist, occupational therapist and physical therapist who present satisfactory evidence of national certification, unless a collective-bargaining agreement provides for a greater increase. To the extent money is available, the bill requires each public school to provide access to a full-time school counselor and provide for a comprehensive school counseling program.

Roll call on Senate Bill No. 319:

YEAS—21.

NAYS—None.

Senate Bill No. 319 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 342.

Bill read third time.

Remarks by Senators Scheible and Settelmeyer.

SENATOR SCHEIBLE:

Senate Bill No. 342 revises provisions relating to animals that have been impounded, including due to charges of animal cruelty, and sets forth revised timelines and hearings that arise out of the impoundment. In the case of an animal being impounded pursuant to somebody's arrest who was not arrested for animal cruelty, the county is obligated to find an alternate replacement for that animal within ten days in conjunction with the owner of the animal.

In the case of animal cruelty, the bill provides for a hearing process which requires the person who has been detained and whose animal has been seized pursuant to the cruelty investigation to request within two days that a hearing be held at which point in time a magistrate or another qualified judicial officer will determine whether or not that person is fit and able to care for the animal. If not, the animal will be reverted to the custody and the possession of the State who will then be able to rehome the animal, place the animal in a foster agency or similar circumstances.

This bill under certain circumstances does allow the court to order the impoundment of other animals possessed by a detained person and to enjoin the person from owning or possessing any animals in the future.

SENATOR SETTELMEYER:

I appreciate the work you are doing on this bill; we have had similar issues in the past. How will the judge determine "fitness"? Is there a definition in law?

SENATOR SCHEIBLE:

There are two guiding principles a judge will use to determine the fitness of an individual. The first is spelled out in the bill. It provides the information a judge will take into consideration including types of testimony, evidence and investigations that should be considered when making a determination of fitness. Second, these hearings will only arise in the case of cruelty investigations, so fitness is narrow. It only applies to whether or not an individual is responsible for the cruelty outside of the criminal investigation and outside the context of any criminal charges being brought. It allows a judge, magistrate or other judicial officer to determine whether or not the person being detained is the person responsible for an animal's poor condition and whether or not that person would be able to overcome the circumstances that prevented them caring for the animal in the first place and if they would be able to care for the animal in the future.

Roll call on Senate Bill No. 342:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 345.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 345 removes provisions of current law which prohibit an estate distillery from manufacturing spirits derived from neutral or distilled spirits manufactured by another manufacturer. The bill provides that a brewpub and certain wineries in this State are authorized to make bulk transfers of malt beverages and wine manufactured on the premises to an estate distillery for the purposes of distillation and blending. The bill authorizes an estate distillery to blend and distill wines or malt beverages if the estate distillery first notifies the Department of Taxation that it will receive such a shipment and provided that any such wine or malt beverage was manufactured by a licensed brewpub or winery in this State meets certain requirements. Finally, the bill provides that such transfers are only taxable when the wine or malt beverages are bottled in original packages for sale within this State and is removed from the federally bonded premises of the estate distillery.

Sections 1.5, 2, 2.5 and 3 of this act become effective on July 1, 2019. Sections 2.3 and 2.7, which are parallel provisions to sections 2 and 2.5, become effective on October 1, 2025.

The bill originated with a distillery in Douglas County where they now want to make cask sherry vodka, and other people are making cask malt beer whiskey.

Roll call on Senate Bill No. 345:

YEAS—21.

NAYS—None.

Senate Bill No. 345 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 355.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 633.

SUMMARY—Revises provisions relating to certain regulatory bodies which administer occupational licensing. (BDR 54-856)

AN ACT relating to regulatory bodies; revising provisions governing the scope of practice of physical therapists relating to the use of the technique of dry needling; revising provisions governing the duties and powers of the State Board of Oriental Medicine; revising provisions governing the licensing of doctors of Oriental medicine; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing the licensure and regulation of physical therapists and doctors of Oriental medicine. (Chapters 634A and 640 of NRS) Existing law defines the scope of practice of physical therapy and restricts persons licensed to practice physical therapy from practicing other forms of healing. (NRS 640.024, 640.190) Section 3 of this bill provides that the practice of Oriental medicine specifically includes dry needling as well as

moxibustion and cupping. Section 12 of this bill includes within the practice of physical therapy the use of the technique of dry needling, which is defined in section 11.5 of this bill. Section 12.5 of this bill ~~[authorizes]~~ requires the Nevada Physical Therapy Board to prescribe by regulation the scope of the use of the technique of dry needling by a physical therapist ~~[. If the Nevada Physical Therapy Board adopts such regulations, section 12.5]~~ and requires that the regulations establish requirements for training that a physical therapist must successfully complete to administer treatment through the use of the technique of dry needling. ~~[Section 12 of this bill makes a conforming change.]~~ Section 3.5 of this bill provides that a person is not practicing the healing art of Oriental medicine if the person is authorized to practice another healing art and is practicing within the scope of that authority, such as if a physical therapist is administering treatment through the technique of dry needling within the scope authorized pursuant to the regulations adopted by the Nevada Physical Therapy Board.

Section 2 of this bill authorizes the State Board of Oriental Medicine to issue an endorsement to practice acupuncture point injection therapy to a doctor of Oriental medicine who meets certain requirements. Section 5 of this bill eliminates the authority of the Board in existing law to fix and pay a salary to the Secretary-Treasurer. (NRS 634A.060) Section 6 of this bill eliminates the requirement in existing law that the Board establish and maintain a list of accredited schools and colleges of Oriental medicine. (NRS 634A.080)

Existing law authorizes the establishment and maintenance of a school or college of Oriental medicine in this State if its establishment and curriculum is approved by the Board. (NRS 634A.090) Section 7 of this bill: (1) eliminates the requirement that the Board annually approve the curriculum; and (2) requires that the school or college be accredited by or have received at least candidacy status for accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization and hold a current license issued by the Commission on Postsecondary Education. Section 4 of this bill makes a conforming change.

Existing law requires an applicant for a license to practice as a doctor of Oriental medicine to: (1) pass a national examination in Oriental medicine administered by a national organization approved by the Board and a practical examination approved by the Board that tests certain subject areas; and (2) meet certain educational and other requirements. (NRS 634A.120, 634A.140) Section 8 of this bill requires such an applicant to pass each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine. Additionally, section 8 eliminates several subjects on the examination approved by the Board. For issuance of a license, section 9 of this bill: (1) revises the educational requirements; (2) requires applicants to hold a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization; and (3) authorizes the

counting of certain work experience in lieu of educational experience for applicants who attended a school or college of Oriental medicine before January 1, 2008.

Sections 10 and 11 of this bill consolidate the requirements relating to the renewal of a license.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A doctor of Oriental medicine licensed pursuant to this chapter may apply to the Board for an endorsement to practice acupuncture point injection therapy. The applicant must submit with his or her application proof that the applicant has:

(a) Successfully completed postgraduate coursework approved by the National Certification Commission for Acupuncture and Oriental Medicine or a successor organization which provides at least 24 hours of instruction provided in person, including, without limitation, at least 8 hours of instruction received by practicum and 2 hours of training in the administration of intramuscular epinephrine; and

(b) Obtained or otherwise carries a policy of professional liability insurance which insures the applicant against any liability arising from the provision of acupuncture point injection therapy by the applicant.

2. The Board shall issue an endorsement to practice acupuncture point injection therapy to an applicant who meets the requirements of subsection 1.

3. A licensee who is issued an endorsement to practice acupuncture point injection therapy may only inject substances for which the licensee has received training which may include, without limitation, nutritional, homeopathic and herbal substances.

4. As used in this section, "acupuncture point injection therapy" means the subcutaneous, intramuscular and intradermal injection of substances to stimulate acupuncture points, ashi points and trigger points to relieve pain and prevent illness.

Sec. 3. NRS 634A.020 is hereby amended to read as follows:

634A.020 As used in this chapter, unless the context otherwise requires:

1. "Acupuncture" means the insertion of needles into the human body by piercing the skin of the body to control , ~~[and]~~ regulate , ~~[the flow and balance of energy in the body and to]~~ cure, relieve or palliate ~~[.]~~ *the body for therapeutic purposes, including, without limitation:*

(a) Any ailment or disease of the mind or body; ~~[or]~~

(b) Any wound, bodily injury or deformity ~~[.]~~ *; or*

(c) The flow and balance of energy in the body.

2. "Board" means the State Board of Oriental Medicine.

3. "Doctor of Oriental medicine" means a person who is licensed under the provisions of this chapter to practice as a doctor of Oriental medicine.

4. *"Dry needling":*

(a) Means an advanced needling skill or technique limited to the treatment of myofascial pain, using a single-use, single-insertion, sterile needle without the use of heat, cold or any other added modality or medication, which is inserted into the skin or underlying tissue to stimulate a trigger point.

(b) Does not include:

(1) The stimulation of an auricular point;

(2) Utilization of a distal point or nonlocal point;

(3) Needle retention;

(4) Application of a retained electrical stimulation lead; or

(5) The teaching or application of other acupuncture theory.

5. "Herbal medicine" and "practice of herbal medicine" mean suggesting, recommending, prescribing or directing the use of herbs for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, bodily injury or deformity.

~~[5.]~~ *6.* "Herbs" means ~~[plants or parts of plants valued for medicinal qualities.~~

~~6.]~~ *any plant or part of a plant which is not prohibited by the laws of the United States or this State and is used in tests or examinations in the practice of Oriental medicine.*

7. "Oriental medicine" means ~~[that]~~ *a* system of the healing art which places the chief emphasis on the flow and balance of energy in the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease. The term includes *, without limitation,* the practice of acupuncture *,* ~~[and]~~ herbal medicine *, moxibustion, cupping, dry needling* and other services approved by the Board.

Sec. 3.5. NRS 634A.025 is hereby amended to read as follows:

634A.025 1. This chapter does not apply to Oriental physicians who are:

(a) Called into this State for consultation; or

(b) Temporarily exempt from licensure pursuant to NRS 634A.163 and are practicing Oriental medicine within the scope of the exemption.

2. This chapter does not apply to a practitioner of acupuncture:

(a) Who is employed by an accredited school of Oriental medicine located in this State;

(b) Who is licensed to practice acupuncture in another state or jurisdiction; and

(c) Whose practice of acupuncture in this State:

(1) Is limited to teaching, supervising or demonstrating the methods and practices of acupuncture to students in a clinical setting; and

(2) Does not involve the acceptance of payment from any patient for services relating to his or her practice of acupuncture.

3. This chapter does not apply to ~~[a]~~ *:*

(a) A physician who is licensed pursuant to chapter 630 or 633 of NRS.

(b) Any other person authorized to practice any other healing art under this title who does so within the scope of that authority.

4. This chapter does not prohibit:

(a) Gratuitous services of druggists or other persons in cases of emergency.

(b) The domestic administration of family remedies.

(c) Any person from assisting any person in the practice of the healing arts licensed under this chapter, except that such person may not insert needles into the skin or prescribe herbal medicine.

5. For the purposes of this section, "accredited school of Oriental medicine" means a school that has received at least candidacy status for institutional accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine, or its successor organization.

Sec. 4. NRS 634A.040 is hereby amended to read as follows:

634A.040 1. The Governor shall appoint four members to the Board who:

(a) Have a license issued pursuant to this chapter;

(b) Currently engage in the practice of Oriental medicine in this State, and have engaged in the practice of Oriental medicine in this State for at least 3 years preceding appointment to the Board;

(c) Are citizens of the United States; and

(d) Are residents of the State of Nevada and have been for at least 1 year preceding appointment to the Board.

2. The Governor shall appoint one member to the Board who:

(a) Is licensed pursuant to chapter 630 of NRS by the Board of Medical Examiners as a physician;

(b) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(c) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(d) Is a citizen of the United States; and

(e) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

3. The Governor shall appoint one member to the Board who:

(a) Does not engage in the administration of a facility for Oriental medicine or a school for Oriental medicine;

(b) Does not have a pecuniary interest in any matter pertaining to Oriental medicine, except as a patient or potential patient;

(c) Is a citizen of the United States; and

(d) Is a resident of the State of Nevada and has been for at least 1 year preceding appointment to the Board.

4. The Governor shall appoint one member to the Board who represents a school or college of Oriental medicine ~~[whose establishment has been approved by the Board]~~ *established* pursuant to NRS 634A.090.

Sec. 5. NRS 634A.060 is hereby amended to read as follows:

634A.060 The Board shall annually elect from its members a President, Vice President and Secretary-Treasurer . ~~[, and may fix and pay a salary to the Secretary-Treasurer.]~~

Sec. 6. NRS 634A.080 is hereby amended to read as follows:

634A.080 The Board shall:

1. Hold meetings at least once a year and at any other time at the request of the President or the majority of the members;

2. Have and use a common seal;

3. Deposit in interest-bearing accounts in the State of Nevada all money received under the provisions of this chapter, which must be used to defray the expenses of the Board;

4. ~~[Establish and maintain a list of accredited schools and colleges of Oriental medicine that are approved by the Board;~~

~~5.]~~ Operate on the basis of the fiscal year beginning July 1 and ending June 30; and

~~[6.]~~ *5.* Keep a record of its proceedings which must be open to the public at all times and which must contain the name and business address of every registered licensee in this State.

Sec. 7. NRS 634A.090 is hereby amended to read as follows:

634A.090 1. A school or college of Oriental medicine may be established and maintained in this State only if:

(a) Its establishment is approved by the Board; ~~[and]~~

(b) ~~[Its curriculum is approved annually by the Board for content and quality of instruction in accordance with the requirements of this chapter.]~~ *It is accredited by or has received at least candidacy status for institutional accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization; and*

(c) It holds a current license issued by the Commission on Postsecondary Education.

2. The Board may prescribe the course of study required for the degree of doctor of Oriental medicine.

Sec. 8. NRS 634A.120 is hereby amended to read as follows:

634A.120 1. Each applicant for a license to practice as a doctor of Oriental medicine must pass:

(a) ~~[An examination in Oriental medicine that is administered by a national organization approved by the Board;]~~ *Each examination required and administered by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization for certification in Oriental medicine;* and

(b) ~~[A practical]~~ *An* examination approved by the Board that tests the applicant's knowledge and understanding of ~~[:~~

~~(1) Basic medical science;~~

~~(2) Acupuncture;~~

~~(3) Herbal medicine;~~

~~(4) Oriental medicine;~~

~~(5) English proficiency; and~~

~~(6) The]~~ *the* laws and regulations of this State relating to health and safety in the practice of Oriental medicine.

2. The Board may establish by regulation ~~[:]~~ *for the examination required by paragraph (b) of subsection 1:*

(a) Additional subject areas to be included in the ~~[practical]~~ examination; and

(b) Specific methods for the administration of the ~~[practical]~~ examination, including, but not limited to, written, oral, demonstrative, practical or any combination thereof.

3. The Board shall contract for the preparation, administration and grading of the ~~[practical]~~ examination ~~[.]~~ *required by paragraph (b) of subsection 1*.

4. Except as otherwise provided in subsection 5, the Board shall offer the ~~[practical]~~ examination *required by paragraph (b) of subsection 1* at least two times each year at a time and place established by the Board.

5. The Board may cancel a scheduled ~~[practical]~~ examination *required by paragraph (b) of subsection 1* if, within 60 days before the examination, the Board has not received a request to take the examination.

6. A person who fails the ~~[practical]~~ examination *required by paragraph (b) of subsection 1* may retake the examination.

Sec. 9. NRS 634A.140 is hereby amended to read as follows:

634A.140 *1.* The Board shall issue a license to practice as a doctor of Oriental medicine to an applicant who:

~~[1.]~~ *(a)* Has:

~~[(a)]~~ *(1)* Successfully completed an accredited 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine *accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization* that ~~[is approved]~~ *meets any requirements prescribed* by the Board ~~[.]~~ *pursuant to NRS 634A.090, including, without limitation, requirements concerning clinical and didactic components;*

~~[(b)]~~ *(2)* Earned a bachelor's degree *, or completed a combined bachelor's and master's degree program in Oriental medicine,* from an accredited college or university in the United States;

~~[(c)]~~ *(3)* Passed an investigation of his or her background and personal history conducted by the Board; and

~~[(d)]~~ *(4)* Passed the examinations required by NRS 634A.120; ~~[or]~~ *and*

(b) Holds a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

2. *Except as otherwise provided in subsection 3, the Board may issue a license to practice as a doctor of Oriental medicine to an applicant who:*

(a) Has:

~~[(a)]~~ *(1)* Successfully completed a 4-year program of study, or its equivalent, in Oriental medicine at a school or college of Oriental medicine that is approved by the Board ~~[,~~

~~(b)~~ *and meets any requirements prescribed by the Board pursuant to NRS 634A.090, including, without limitation, requirements concerning clinical and didactic components;*

(2) Lawfully practiced Oriental medicine in another state or foreign country for at least 4 years;

~~[(c)]~~ *(3)* Passed an investigation of his or her background and personal history conducted by the Board; and

~~[(d)]~~ *(4)* Passed the examinations required by NRS 634A.120 ~~[.]~~ *; and*

(b) Holds a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

3. The Board may issue a license to practice as a doctor of Oriental medicine to an applicant who:

(a) Has:

(1) Successfully completed a program in Oriental medicine from a school or college of Oriental medicine accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or its successor organization before January 1, 2008, that included the study of herbology;

(2) Practiced Oriental medicine pursuant to the laws of another state or territory of the United States, the District of Columbia, or foreign country for at least of 6 of the 8 years immediately preceding the date of the application;

(3) Passed an investigation of his or her background and personal history conducted by the Board; and

(4) Passed the examinations required by NRS 634A.120; and

(b) Holds a current certification in Oriental medicine issued by the National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

Sec. 10. NRS 634A.160 is hereby amended to read as follows:

634A.160 ~~[1.]~~ Every license must be displayed in the office, place of business or place of employment of the holder thereof.

~~[2. Every person holding a license shall pay to the Board on or before February 1 of each year, the annual fee for a license required pursuant to subsection 4. The holder of a license shall submit with the fee all information required to complete the renewal of the license. If the holder of a license fails to pay the fee or submit all required information, the license must be suspended. The license may be reinstated by payment of the required fee and submission of all required information within 90 days after February 1.~~

~~3. A license which is suspended for more than 3 months under the provisions of subsection 2 may be cancelled by the Board after 30 days' notice to the holder of the license.~~

~~4. The annual fee for a license must be prescribed annually by the Board and must not exceed $1,000.]~~

Sec. 11. NRS 634A.167 is hereby amended to read as follows:

634A.167 1. To renew a license issued pursuant to this chapter, each person must, on or before February 1 of each year:

(a) Apply to the Board for renewal;

(b) Pay the annual fee for a license prescribed by the Board ~~[.]~~ *, which must not exceed $1,000;*

(c) Submit evidence to the Board of completion of the requirements for continuing education; and

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

2. The Board shall, as a prerequisite for the renewal or reinstatement of a license, require each holder of a license to comply with the requirements for continuing education adopted by the Board.

3. If the holder of a license fails to pay the fee or submit all required information by February 1 of each year, the license expires automatically. The license may be reinstated by payment of the required fee and submission of all required information within 90 days after the expiration of the license pursuant to this subsection.

Sec. 11.5. Chapter 640 of NRS is hereby amended by adding thereto a new section to read as follows:

"Dry needling" means a skilled technique performed by a physical therapist using filiform needles to penetrate the skin or underlying tissue to effect change in body structures and functions for the evaluation and management of neuromusculoskeletal conditions, pain, movement, impairment and disability.

Sec. 11.7. NRS 640.011 is hereby amended to read as follows:

640.011 As used in this chapter, unless the context otherwise requires, the terms defined in NRS 640.013 to 640.026, inclusive, *and section 11.5 of this act* have the meanings ascribed to them in those sections.

Sec. 12. NRS 640.024 is hereby amended to read as follows:

640.024 "Practice of physical therapy":

1. Includes:

(a) The performing and interpreting of tests and measurements as an aid to evaluation or treatment;

(b) The planning of initial and subsequent programs of treatment on the basis of the results of tests; ~~[and]~~

(c) The administering of treatment through the use of therapeutic exercise and massage, the mobilization of joints by the use of therapeutic exercise without chiropractic adjustment, mechanical devices, and therapeutic agents which employ the properties of air, water, electricity, sound and radiant energy ; ~~[.]~~ *and* ~~*[the]*~~

(d) The use of the technique of dry needling . ~~[if authorized by regulation by the Board.]~~

2. Does not include:

(a) The diagnosis of physical disabilities;

(b) The use of roentgenic rays or radium;

(c) The use of electricity for cauterization or surgery; or

(d) The occupation of a masseur who massages only the superficial soft tissues of the body.

Sec. 12.5. NRS 640.050 is hereby amended to read as follows:

640.050 1. The Board shall:

(a) Enforce the provisions of this chapter and any regulations adopted pursuant thereto;

(b) Evaluate the qualifications and determine the eligibility of an applicant for a license as a physical therapist or physical therapist assistant and, upon payment of the applicable fee, issue the appropriate license to a qualified applicant;

(c) Investigate any complaint filed with the Board against a licensee; and

(d) Unless the Board determines that extenuating circumstances exist, forward to the appropriate law enforcement agency any substantiated information submitted to the Board concerning a person who practices as a physical therapist or physical therapist assistant without a license.

2. The Board may adopt reasonable regulations to carry this chapter into effect, including, but not limited to, regulations concerning the:

(a) Issuance and display of licenses.

(b) Supervision of physical therapist assistants and physical therapist technicians.

3. The Board ~~[may]~~ shall prescribe by regulation the scope of the use of the technique of dry needling by a physical therapist. ~~[If the Board adopts such regulations, the]~~ The regulations must, without limitation, establish requirements for training that a physical therapist must successfully complete before administering treatment through the use of the technique of dry needling.

~~[3.]~~ *4.* The Board shall prepare and maintain a record of its proceedings, including, without limitation, any disciplinary proceedings.

~~[4.]~~ *5.* The Board shall maintain a list of licensed physical therapists authorized to practice physical therapy and physical therapist assistants licensed to assist in the practice of physical therapy in this State.

~~[5.]~~ *6.* The Board may:

(a) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(b) Employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(c) Adopt a seal of which a court may take judicial notice.

~~[6.]~~ *7.* Any member or agent of the Board may enter any premises in this State where a person who holds a license issued pursuant to the provisions of this chapter practices physical therapy or as a physical therapist assistant and inspect the premises to determine whether a violation of any provision of this chapter or any regulation adopted pursuant thereto has occurred, including, without limitation, an inspection to determine whether any person at the premises is practicing physical therapy or as a physical therapist assistant without the appropriate license issued pursuant to the provisions of this chapter.

~~[7.]~~ *8.* Any voting member of the Board may administer an oath to a person testifying in a matter that relates to the duties of the Board.

~~*[9. As used in this section, "dry needling" has the meaning ascribed to it in NRS 634A.020.]*~~

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act; and on January 1, 2020, for all other purposes.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Amendment No. 633 makes three changes to Senate Bill No. 355. The amendment includes the technique of dry needling within the scope of practice of physical therapy; adds a new section to include the definition of dry needling within chapter 640 of the *Nevada Revised Statutes* governing physical therapists; and amends section 12 of the bill to require the Nevada Physical Therapy Board to prescribe by regulation the scope of the use of dry needling by a physical therapist.

Amendment adopted.

Bill read third time.

Remarks by Senators Parks and Settelmeyer:

SENATOR PARKS:

Senate Bill No. 355 authorizes the State Board of Oriental Medicine to issue an endorsement to practice acupuncture point injection therapy to a doctor of Oriental medicine who meets certain requirements. The bill provides that the practice of Oriental medicine includes dry needling as well as moxibustion and cupping and eliminates various duties of the Board. The bill requires that a school or college of Oriental medicine be accredited by or have received at least candidacy status for accreditation from the Accreditation Commission for Acupuncture and Oriental Medicine and hold a current license issued by the Commission on Postsecondary Education of the Department of Employment, Training and Rehabilitation.

Additionally, the bill revises certain requirements for licensure and provides that an applicant for a licensure must hold a current certification in Oriental medicine from the National Certification Commission for Acupuncture and Oriental Medicine. Finally, the bill authorizes the Nevada Physical Therapy Board to prescribe by regulation the scope of the use of dry needling by a physical therapist. This bill is effective upon passage and approval for the purposes of adopting any regulations and performing any administrative tasks, and on January 1, 2020, for all other purposes.

SENATOR SETTELMEYER:

I would like to thank my colleague from District 7, he has done an immense amount of work to help the Acupuncture Board, and I support all aspects of the bill dealing with that.

I am concerned about section 11.5 that has physical therapists defining dry needling. I think that should be on all Title 54. Now, we have been told that massage therapists, chiropractors and others will be doing dry needling. There are definitely other boards we do not want to do dry needling. In section 12.5 it says, "A board shall prescribe by regulation…" yet, we heard their opinion is that as long as a person has enough training to feel competent, they should be allowed to dry needle. We should have put some determination of hours on this, at least 25 hours, so training is more than a 2-day weekend course. We are not doing justice to this by not adding all of Title 54. These should always be single use dry needles; otherwise, we are not being safe. In that respect, I will be voting "no".

Roll call on Senate Bill No. 355:
YEAS—19.
NAYS—Hammond, Settelmeyer—2.

Senate Bill No. 355 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 362.
Bill read third time.
Remarks by Senator Hardy.
Senate Bill No. 362 requires regulations adopted by the State Board of Health governing the licensing of adult day-care facilities and residential facilities for groups that provide care to people with Alzheimer's disease to also apply to facilities that provide care to people with other severe dementia. It requires the administrator of a residential facility for groups to annually cause a physician to conduct a physical examination of each resident of the facility and conduct an assessment of the history of each resident.
If the physical examination, assessment or observations of certain persons indicate that a resident requires a secure facility or a facility with a high staff-to-resident ratio, the bill requires the administrator to cause a physician to conduct an assessment of the condition and needs of the resident. If the physician determines the resident suffers from dementia to an extent that he or she may be a danger to himself or herself or others if not placed in a secure unit or a facility with a high staff-to-resident ratio, then, the residential facility in which the resident is placed must meet the regulatory requirements prescribed by the Board for group residential facilities that provide care to persons with Alzheimer's disease or other severe dementia.

Roll call on Senate Bill No. 362:
YEAS—21.
NAYS—None.

Senate Bill No. 362 having received a constitutional majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 368.
Bill read third time.
Remarks by Senator Spearman.
Senate Bill No. 368 creates the Sexual Assault Victims' DNA Bill of Rights, which primarily addresses the testing of and victim notification concerning sexual-assault forensic kits. The bill also makes other changes regarding sexual assault, sex trafficking and victims of crime. Among these provisions, the bill removes the statute of limitations on civil and criminal complaints arising out of sexual assault, and this is for those under the age of 18; creates a rebuttable presumption that sexual conduct by a person in a position of authority over an alleged victim is not consensual; prolongs the length of time that an extended protection order may remain in effect, and provides for the vacation and sealing of records when a child who was adjudicated delinquent for certain acts associated with prostitution is found to be a victim of sex trafficking.
The bill also revises timelines and procedures for performing tests for exposure to Human Immunodeficiency Virus and other sexually transmitted diseases on a person who is alleged to have committed a sexual offense. It additionally requires the Advisory Commission on the Administration of Justice to study the laws of this State relating to prostitution and the solicitation of prostitution and report its findings and recommendations to the 81st Session of the Nevada Legislature
This bill is effective on October 1, 2019. Provisions relating to the statute of limitations on actions brought for sexual assault or abuse of a child apply to cases in which the assault or abuse

occurred while the victim was under 18 years of age and for which the applicable statute of limitations has not expired as of October 1, 2019. Similarly, provisions relating to a perpetrator apply to a person who committed or who commits a violation prior to October 1, 2019, for which the statute of limitations has not expired as of October 1, 2019.

Some of us may remember the horrific trial of a doctor who was associated with a U.S. Olympic gymnast. There is another case brewing in California with over 200 claims against a doctor. In this case, a former University of Southern California gynecologist who treated students was recently at the center of attention. In 2016, when a female nurse made claims against a doctor she worked alongside, he was finally removed from the gynecology clinic. A number of the women who have made claims would like the opportunity to tell their stories before a court; however, the statute of limitations for many has already expired.

We should do all within our powers to protect those under the age of 18. Anyone who abuses a child under the age of 18 should be prosecuted fully to the extent of the law. The statute of limitations should not apply to cases such as this. It is a good bill; I urge its passage.

Roll call on Senate Bill No. 368:

YEAS—21.

NAYS—None.

Senate Bill No. 368 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 371.

Bill read third time.

Remarks by Senator Brooks.

Senate Bill No. 371 authorizes a person to maintain the property in a manufactured home park, including a manufactured home, without any license, if the maintenance does not require a permit, does not affect fuel systems or the structural systems of a manufactured home and the value of the maintenance is less than $1,000. Additionally, a person who is licensed as a contractor may perform any maintenance in a manufactured home park, including on a manufactured home, if the maintenance does not affect fuel systems or the structural systems of a manufactured home.

Roll call on Senate Bill No. 371:

YEAS—21.

NAYS—None.

Senate Bill No. 371 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

Remarks by Senator Parks.

Senate Bill No. 385 provides for the regulation of and issuance of licenses to persons who offer, sell, solicit or negotiate coverage under a new limited line of insurance, personal-property storage insurance, which provides coverage for any loss or theft of personal property stored in a storage space at a facility or while the property is in transit to or from the facility during the time period covered by the occupant's rental agreement in accordance with the terms of the policy. The bill authorizes the Commissioner of the Division of Insurance of the Department of Business and Industry to issue a license to an owner of such a storage facility. The bill requires the Commissioner to adopt regulations for issuing such a license and provides that the Commissioner may establish the fees for application and renewal for such a license. This bill is effective upon

passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, and on July 1, 2020, for all other purposes.

Roll call on Senate Bill No. 385:
YEAS—21.
NAYS—None.

Senate Bill No. 385 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 387.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 387 requires each nontransplant anatomical donation organization in Nevada to be certified by the Division of Public and Behavioral Health of the Department of Health and Human Services. Such organizations must follow certain standards and guidelines established by the Division and report certain information to the Division relating to the human bodies and parts they procure. In addition, the Division must establish certain guidelines and standards based on federal and state laws; provide certain information regarding human bodies and parts collected by nontransplant anatomical donation organizations to the Governor and Legislature upon request, and monitor such organizations for compliance with federal and State laws.

Roll call on Senate Bill No. 387:
YEAS—21.
NAYS—None.

Senate Bill No. 387 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 390.

Bill read third time.

Remarks by Senator Hansen.

Senate Bill No. 390 authorizes the State Quarantine Officer to adopt regulations providing a process for the operator of a farm or other facility that raises poultry to obtain a permit to sell raw poultry to a consumer at the farm or other facility in this State. In addition, the State Quarantine Officer may adopt regulations providing a process for a person to obtain a license to operate a custom processing establishment or mobile processing unit. The bill defines "custom processing establishment" to mean a fixed facility that processes livestock or poultry for the owner or person in lawful possession of the livestock or poultry at the facility and "mobile processing unit" to mean certain types of vehicles used to process livestock or poultry for such persons at the person's farm or other facility or at another approved location.

Roll call on Senate Bill No. 390:
YEAS—21.
NAYS—None.

Senate Bill No. 390 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 392.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 392 requires that at least one person employed in the Real Estate Division of the Department of Business and Industry assist the Ombudsman within the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels in fulfilling his or her duties and must be a certified public accountant or have training, expertise and experience in performing audits. The bill also requires the Attorney General to assign a deputy attorney general who has expertise in the area to the Division. The bill authorizes the Director of the Department to create a task force on common-interest communities to address areas of concern and recommend regulations or legislation as appropriate.

Roll call on Senate Bill No. 392:

YEAS—21.

NAYS—None.

Senate Bill No. 392 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 397.

Bill read third time.

Remarks by Senator Brooks.

Senate Bill No. 397 authorizes a licensed contractor to perform work for which the contractor does not have a license in the applicable classification or sub-classification if the value of the work is less than $1,000 and does not require a building permit and the work is not the type performed by a plumbing, electrical, refrigeration or air-conditioning contractor.

Roll call on Senate Bill No. 397:

YEAS—21.

NAYS—None.

Senate Bill No. 397 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 414.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 414 increases the amount of the award for the Kenny C. Guinn Memorial Millennium Scholarship from $4,500 to $5,000 each year. It also increases the number of scholarship recipients from one student to two students who attend certain colleges or universities in northern Nevada, and from one student to two students who attend certain colleges or universities in southern Nevada. The bill provides for scholarship eligibility to include students enrolled at nonprofit universities that award a bachelor's degree in education to residents of northern or southern Nevada. Finally, Senate Bill No. 414 allows a prospective scholarship recipient to demonstrate an equivalent level of academic achievement if his or her institution does not use the grade point system.

Roll call on Senate Bill No. 414:

YEAS—21.

NAYS—None.

Senate Bill No. 414 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 418.

Bill read third time.

Remarks by Senators Parks, Goicoechea, Hardy, Ohrenschall, Hammond, Spearman and Washington.

SENATOR PARKS:

Senate Bill No. 418 relates to the distribution and sale of raw milk. Senate Bill No. 418 requires each owner or operator of a food establishment in which certified raw milk and products made from it are sold to ensure the milk and products are stored in a separate refrigerator and certain health warnings concerning the consumption of raw milk are posted in the food establishment. The bill also provides requirements for the labeling of and warnings regarding certified raw milk; removes certain limitations on the sale or dispensing of raw milk; exempts certain owners of dairy cows, sheep or goats from certain requirements relating to certified raw milk and products made from it if the milk or products obtained from such animals is sold directly to a consumer or consumed at the premises where the raw milk is produced; removes certain qualifications required for a person to serve as a member of a county milk commission; requires a county milk commission to adopt certain regulations. Finally, it provides that certified raw milk and products made from it may be sold anywhere in the State under certain circumstances.

SENATOR GOICOECHEA:

I rise in opposition to Senate Bill No. 418. I have probably consumed as much raw milk as anyone in this room, and there is nothing I hate worse than milking a cow. There was a time when you milked the family cow and were drinking truly raw milk. There was not the threat there is today where cows are moved for thousands of miles from one dairy to another. I do not see enough in this bill regarding inspection and certification of those cows. If a truckload of cows from the El Paso milkshed is contaminated with tuberculosis, this can cause horrible problems with raw milk. For that reason, I am opposing the bill. There are not enough requirements on the safety and checks of raw milk as distributed this way. If you want raw milk, buy a cow and milk her.

SENATOR HARDY:

I rise in opposition to the bill but not in opposition to the people who drink raw milk or the people who drink pasteurized milk. One of the challenges we have in today's society is the confidence we have in food safety. We know about listeria and what happened to cheese. We know about the children who became infected and sick. We are familiar with romaine lettuce and what happened with the scare regarding contamination of romaine lettuce. I could not eat romaine lettuce in a restaurant or buy it in a store. Louis Pasteur came along and created pasteurization, and we now have fewer diseases. Typhoid Mary came along, and we found to prevent typhoid, we needed to remove the handle from the pumps in the town square. There are simple things we do in life to protect the health of people; one of them is pasteurization. I rise in support of pasteurization and against this bill.

SENATOR OHRENSCHALL:

I rise in support of raw milk and Senate Bill No. 418. The Senators who just spoke have brought up valid concerns, but I believe this bill addresses those concerns. Any regulations regarding health and safety to be administered by local milk commissions have to be promulgated by the Director of the Department of Agriculture. The bill was amended to require separate refrigeration in stores for raw milk and signage with warnings. Raw milk has been legal in Nevada for over 40 years. There are pages of Nevada administrative code that detail testing requirements; they will not go away under this legislation. Senate Bill No. 418 strikes a balance, allowing consumers who want to purchase and consume raw milk that freedom, but also providing protection here and in the administrative code. The sponsors worked hard to achieve that, and I urge its passage.

SENATOR HAMMOND:

When a similar bill came up four years ago, I voted in favor of it reminiscing on my youth and having milked cows as a child. As the years have gone by however, we have seen too many scares about where our food is coming from. This bill could potentially damage the industry we have in Nevada because it is not if, but when, it happens again, especially in southern Nevada where we

have people who deal in dairy. When we have a scare, people do not buy that type of food for weeks as we saw with the cheese scare. For that reason, and not being able to have confidence in the food supply, I cannot vote for it this time. I understand and sympathize, as I was a raw milk drinker as a child; but we had the cow in our backyard, and I knew where I was getting the milk. I cannot support this bill because it passes through too many hands before it gets to the user.

SENATOR SPEARMAN:

I have two questions. First, is raw milk legal in Nevada? Second, are people in Nevada consuming and purchasing raw milk?

SENATOR OHRENSCHALL:

Yes, raw milk is legal in Nevada. It has been legal for over 40 years pursuant to chapter 584 of the *Nevada Revised Statutes*. There was testimony in the hearing from people who consume raw milk, but the obstacle has been people being able to purchase it who are not in a rural, agricultural setting. That is the obstacle. Even though chapter 584 provides a framework, it has been difficult to get the product to consumers. This makes it almost impossible for people who do not own an animal to obtain the product. In our neighboring states, it is available for sale.

SENATOR WASHINGTON:

I am not a milk drinker, but I am going to support this bill because people have options. They can either buy the raw milk or not buy it.

Roll call on Senate Bill No. 418:

YEAS—16.

NAYS—Denis, Dondero Loop, Goicoechea, Hammond, Hardy—5.

Senate Bill No. 418 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 428.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 428 prohibits a person from parking a vehicle in a parking space designated for charging an electric or hybrid electric vehicle unless the vehicle is being charged at the charging station. Such a parking space must be identified by appropriate markings or a sign to make this provision enforceable. A violation of this provision is not a moving violation and is punishable by a fine. Additionally, a person who violates this parking restriction is subject to having his or her vehicle towed under certain circumstances at the request of the owner of the real property where the parking space is located.

As we see a growth in electric vehicles, we find the places to charge them are not yet abundant, and when those spaces are taken up by nonelectric vehicles, it undercuts our ability to have a viable electric vehicle market. This was brought to me by a constituent, and I hope you will consider supporting it.

Roll call on Senate Bill No. 428:

YEAS—21.

NAYS—None.

Senate Bill No. 428 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 429.

Bill read third time.

Remarks by Senator Cannizzaro.

Senate Bill No. 429 provides that an applicant who holds an official amateur radio station license must only submit a statement once to the Department of Motor Vehicles that he or she will assist in communications during local, State and federal emergencies in order to obtain a waiver of the $10 fee for a renewal sticker for an amateur radio station special license plate.

Roll call on Senate Bill No. 429:

YEAS—21.

NAYS—None.

Senate Bill No. 429 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 432.

Bill read third time.

Remarks by Senators Cannizzaro, Kieckhefer and Hansen.

SENATOR CANNIZZARO:

Senate Bill No. 432 authorizes the Commissioner of the Division of Financial Institutions of the Department of Business and Industry to license and regulate a consumer litigation-funding company. The bill provides that a consumer litigation-funding company is one that engages in a consumer litigation-funding transaction, whereby a company provides a consumer money and the consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgement, award or verdict obtained in the legal claim of the consumer. A person who engages in such business without a license is guilty of a misdemeanor. The bill requires a contract for a consumer litigation-funding transaction to meet certain requirements and contain certain disclosures regarding fees and the rights of the consumer.

Additionally, the bill requires a company licensed by the Commissioner to maintain assets of at least $50,000 and submit an annual report regarding the activities of the licensee, which are to be made available to the public. Finally, the bill authorizes the Commissioner to impose fines and suspend or revoke a license for certain violations.

SENATOR KIECKHEFER:

This does not allow such a contract to be funded based on a percentage of any award that is part of a settlement or award by a jury or judge; is that correct?

SENATOR CANNIZZARO:

In the current version of the bill, they are permitted to have a fee as part of that, but the bill prohibits the company from charging fees that would exceed a rate of 40 percent annually. This provides for fees as a result of what the potential award of damages would be at trial.

SENATOR KIECKHEFER:

I was speaking to section 21, subsection 2, where it indicates "an amount to be paid to a company under a consumer litigation funding contract must not be determined as a percentage of the recovery of the legal claim of a consumer." If it were to be allowed as a percentage of a potential award, this 40 percent stacked on top of a potential attorney claim of 40 percent could leave a consumer with virtually nothing after such a claim. I want to ensure this is not stacking an award out of the hands of the person who then receives it.

SENATOR CANNIZZARO:

I was referring to where you see the rate. In section 21, that 40 percent has to do with the amount the contractor can charge annually; it is capped in this bill. This would not be a percentage of the amount recovered in damages. It would be a cap on the 40 percent annually for the company.

SENATOR HANSEN:

I was originally opposed to this bill, but a colleague told me there are no regulations now. If that is correct, I will support the bill because it is a step in the right direction, but it seems we have not gone far enough.

SENATOR CANNIZZARO:

It is my understanding these are not currently regulated in the form provided in this bill. We have worked with the Department of Business and Industry and the FID to make sure we are putting in regulations to ensure these are properly regulated entities.

Roll call on Senate Bill No. 432:

YEAS—21.

NAYS—None.

Senate Bill No. 432 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 448.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 448 authorizes the Housing Division of the Department of Business and Industry to issue transferable tax credits that are authorized to be taken against certain State taxes to the sponsor of a project for the acquisition, development, construction, improvement, expansion, reconstruction or rehabilitation of low-income housing, as defined by existing federal law. The transferable tax credits may be applied to the Branch Bank Excise Tax, the Modified Business Tax, the Gaming Percentage Fee Tax, the Insurance Premium Tax or any combination of these taxes.

The bill authorizes a total of $40 million of transferrable tax credits and provides that the Housing Division is authorized to approve, with certain exceptions, $10 million of transferable tax credits per fiscal year. The Housing Division is prohibited from approving applications and issuing transferable tax credits for any fiscal year beginning on or after July 1, 2023. This is set up as a pilot project for four years to ensure the program works as it was intended.

The bill establishes procedures for the review of project applications and determining the amount of tax credits to be awarded for each project and requires the amount of State transferable tax credits needed to make a project financially feasible to be determined after all other sources of funding are allocated and paid towards the final cost of the project.

Finally, the bill requires the Housing Division to provide certain notifications and reports to the Department of Taxation, the Gaming Control Board, the Governor's Office of Finance and the Fiscal Analysis Division of the Legislative Counsel Bureau, in addition to providing an annual report to the Governor and the Legislature.

I could not be more excited about this bill. I want to express my gratitude to the Interim Committee on Affordable Housing. We are talking about affordable housing a lot this Session, and there are many things that will make a difference, including several bills we have heard today. This bill will guarantee a certain number of units be available to low-income and extremely low-income families. For extremely low-income families, we only have 15 units for every 100 needed. When we talk about low-income housing, the number is between 30 and 40 units, but this is still nowhere near enough. This bill will make a meaningful difference, not in enough people's lives, but enough that we should do it. I urge your support.

Roll call on Senate Bill No. 448:

YEAS—21.

NAYS—None.

Senate Bill No. 448 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 450.

Bill read third time.

Remarks by Senators Ohrenschall, Settelmeyer, Hardy, Ratti, Spearman, Goicoechea, Hansen and Hammond.

SENATOR OHRENSCHALL:

Senate Bill No. 450 makes it unlawful for any person to knowingly or negligently obtain a false signature on a recall petition. Such action is subject to a category E felony. The penalty for misrepresenting the intent or content of a recall petition is increased from a misdemeanor to a category E felony. The bill provides, in addition to any criminal penalty, that a person who violates provisions relating to recall is subject to a civil penalty not to exceed $20,000 for each violation. Moreover, Senate Bill No. 450 specifies that a person who signs a notice of intent to circulate a recall petition is jointly and severally liable for any civil penalty imposed related to the recall. Signers of the notice intent must be voters who actually voted in the race at which the public officer was elected and who resided in the district, county or municipality at the time the notice of intent was filed.

Every page of the recall petition must include the constitutionality required statement of why the recall was demanded. In addition, the bill provides that a person who requests the removal of his or her signature may do so at any time before the signature verification process is completed and, in certain circumstances, after the verification phase. The measure amends the deadline for filing a complaint relating to the legal sufficiency of a recall petition to not later than 15 days, weekends and holidays excluded, after notification by the Secretary of State that the petition contains a sufficient number of signatures.

For recalls on Statewide officeholders, Senate Bill No. 450 requires that 25 percent of petition signatures be examined in a random sample. The bill eliminates this random sampling practice for all other recall petitions that have 100 percent or more of the required number of signatures and instead, requires the verification of every signature. The bill also addresses the costs associated with signature verification by requiring petitioners to pay certain upfront costs relating to the process. However, such upfront costs need not be paid if the payment would cause an undue burden.

The measure creates a contribution limit of $5,000 to a candidate in a recall election and specifies the time frame during which contributions may be given to or received by recall candidates and recall committees. This limitation does not affect any existing limitations relating to the primary or general election; however, the bill lifts the fundraising blackout period for certain office holders who are the subject of a recall for the duration of the recall and any subsequent recall election. Finally, Senate Bill No. 450 provides that every recall election candidate must dispose of his or her unspent contributions; requires a report detailing the disposition of contributions, and prohibits the use of that money in a future election.

Article 2, Section 9, of the *Nevada Constitution* was added by the voters in 1912. We have had the right to recall public officers for over 100 years. Senate Bill No. 450 does nothing to abridge that right. What it tries to accomplish is to prevent the abuse of that constitutional right and process. It tries to protect the taxpayer and the process. This bill has a provision for if a recall committee does not have the financial means for the estimated cost, the committee would have to swear out a form under penalty of perjury and not pay any circulation gatherers. As someone who was active and went door-to-door talking to people whose names ended up on recall petitions who had no idea how their names got on those petitions, I believe the abuse under current constitutional process is real. Senate Bill No. 450 will go a long way to curb this abuse, and I urge its passage.

SENATOR SETTELMEYER:

I appreciate some of the concepts in this bill, but I feel it may go too far. One of the first experiences I had in politics was in Douglas County when the citizens became unhinged about

rural, mandatory pickup of trash. They decided to launch a recall against the county commissioners, which was unsuccessful. Recently, in the districts I represent, the Sheriff in Virginia City has been the subject of a recall under the current process. This, too, was unsuccessful. The only recalls I have heard of that were successful were in some of the smaller counties with populations below 40,000. Sometimes, just the discussion of a recall will make a person decide not to run again in a smaller area.

I am worried about the concept of 100-percent funding. Thank you for explaining that there is a provision to prevent this. Section 2 appears to have an unfunded mandate that limits the concept of free speech because currently donations of up to $10,000 can be made, and this takes it down to $5,000. This is a bridge too far. It is too aggressive in trying to curb the concept of recalls. There are aspects I could agree to, but the bill goes too far.

SENATOR HARDY:

We do not need to look too far to see there have been no behavioral reasons to create a recall. We all have misgivings, regrets and maybe even apologies. In politics, there is a pendulum effect, we go too far to the right, then, come back and go too far to the left, and eventually, we come to the middle. If we do not like someone or something for what they did, the threat of a recall helps them make the decision to resign. We have seen that as well. When we look at some of the things in the bill, it makes sense. For egregious behavior, recall is deserved. I appreciate that part of the bill. We have gone too far on the pendulum, and it makes it difficult to hold people accountable. I will not be voting for this bill not because of what has happened in the past but the reality is the pendulum went too far.

SENATOR OHRENSCHALL:

I respect the comments of the two Senators who just spoke, but I stand by my comments. Nothing in the bill abridges the constitutional right of the people under Article 2, Section 9. What this bill does is prevent abuse of the process; it protects our taxpayers and ensures if a recall goes forward, it will be legitimate.

SENATOR RATTI:

The examples given are good but do not acknowledge the world in which we live today, a world where outside money can come in and dump hundreds of thousands of dollars to pay people who do not have interest in what is happening in an election or a recall process to go out and get signatures in ways that are inappropriate and ripe for abuse. As much as I love the concept of recalling a county commissioner because we do not like a trash law, what we are seeing in this day and age goes well beyond a group of citizens who become upset. It is now nasty and targeted with dirty tactics that are damaging to the very fabric of our democracy. They get to the point where they are turning voters off from wanting to participate at all. Doors are being knocked on so many times that voters feel harassed, and they are shutting us down and turning us off. It is important we ensure the integrity of our elections and something as significant as the recall process. The reason this is significant is if it is not done well, it is going against the original will of the electorate. That is something none of us should be taking lightly. We are not talking about a group of citizens who get angry because of an outcome, organize and put their volunteer efforts into addressing things in their own communities. We are talking about highly sophisticated, political people with a lot of money who pay people, not because of any specific vote or bad behavior, to take people out. That should not be acceptable in the State of Nevada. This is not who we are nor who we want to be. We should be willing to tighten up the process to ensure when these things happen, all of us can rely on a process that is fair, consistent, reliable and can be easily interpreted. I urge my colleagues to support this bill because it is bigger than any one process. It is important to the fabric of our democracy in the State of Nevada.

SENATOR SPEARMAN:

One of the things my colleague from District 21 mentioned was that whoever is going to do a recall has to put the money up front. If this is a grassroots organization, there are things within the bill to protect them. Several years ago, Colorado went through a recall, and the people who were doing it said it would probably cost a couple of hundred thousand dollars. By the time it was completed, the cost was over $1 million. Recently, we had something similar happen here. Had

the proponents of that vicious act been successful, it might have cost taxpayers more than $150,000. This bill strikes a good balance between the constitutional right of free speech and ensuring there is integrity in the process. I cannot imagine anyone who supports fiscally conservative policies and who wants to protect taxpayers not supporting this bill. There is a balance here to protect those who have a legitimate reason and those who are opting for something more expeditious than the rightful vote the people have taken. I ask my colleagues to consider there is an exorbitant cost to the people when this is used maliciously. My challenge is anyone who has advocated for fiscally conservative policies should take a good look at Senate Bill No. 450, you will find in there something you can like.

SENATOR GOICOECHEA:

I come from the recall capital of Nevada, and in my political career in Eureka County, we have recalled two sheriffs and one district attorney successfully and have had a number of other petitions started. Senate Bill No. 450 would hamper the ability of smaller counties, such as those under 10,000. It does not cost a lot of money. There is no big money involved in it, and with the passage of this bill it would be hampered. If we are going to pass a bill like this because it is a concern in the larger jurisdictions, we are taking the recall ability away in the smaller counties.

SENATOR HANSEN:

We know which recall generated this bill. I was an open opponent of that effort and still am. It was a mistake. After studying this bill and the direction it is going, I agree with my colleague from Eureka County; this is going too far. It will hamper the people in legitimate recall efforts. That recall was political, but the reality is we are politicians, and politics is not always nice, sweet and clean. I have had two ethical violations brought against me. I came out clean on both of them, but it was an ugly process to go through. My political opponents did it to try to damage my reputation. This is part of the reality of this process. Democracy is not always nice and clean where everyone is treated fairly.

While I like the basic concept behind this bill to eliminate as much of those types of flaws in the system as possible, this goes too far. I would like to address the dollar amounts we are talking about. The money in a recall is small compared to that used in normal election cycles. If we are going to look at the financial side of things, this is not the place to start; we should look at the millions of dollars that have been dumped into Nevada campaigns for elections for all sorts of offices. I am going to oppose the bill because this has been Nevada law for over 100 years, and we should not tamper with it lightly. We are using the emotionalism created by misuse of it in the last election cycle to go perhaps too far in the opposite cycle. I urge my colleagues not to support Senate Bill No. 450.

SENATOR HAMMOND:

This is difficult and emotional because of recent events. If we are going to talk about striking a balance, we need to go back to when this part of our direct democracy was passed in 1912. We have three forms of direct democracy in Nevada. Of the three, we have that the citizens passed, this was the most hotly debated at the time. It was debated for many weeks and months because they wanted to strike a balance and make sure they were not going to allow the people to remove folks arbitrarily from positions into which they were duly elected. They struck a balance back then. What we have, in over 100 years, is less than 10 individuals removed from office, and there has never been a Statewide officer removed. There is the potential for abuse, but we got it right in the end this time; the courts came out and made the right decision. This bill might go too far and take away the potential for the citizens of Nevada to have the effect on the political system they decided they wanted back in 1912. For that reason, I am opposing the bill as written.

Roll call on Senate Bill No. 450:

YEAS—16.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Settelmeyer—5.

Senate Bill No. 450 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 462.

Bill read third time.

Remarks by Senators Parks and Hardy.

SENATOR PARKS:

Senate Bill No. 462 relates to constables. It makes various changes to provisions governing constables. It revises the required level of certification each constable and deputy constable must receive from the Peace Officers' Standards and Training Commission. If the constable of an office established as an enterprise fund appoints a deputy constable, the compensation of the deputy constable shall be subject to the approval of the board of county commissioners. The bill clarifies that a person employed as clerical or operational staff of a constable may not carry a firearm, concealed or not, while performing the duties of the office of the constable.

This bill increases the amount a constable is entitled to receive for collecting sums on execution or writs. A constable of an office established as an enterprise fund must account for and forward every five business days any fees received within the preceding period. The office of constable is designated nonpartisan; however, this designation does not apply to a constable who is in office as of October 1, 2019, unless he or she is elected or appointed to a term of office on or after October 1, 2019. I encourage your support.

SENATOR HARDY:

Does this allow for the free election of the constable, where it applies, so the constable may or may not be POST certified?

SENATOR PARKS:

Yes, in the future, the constables will have to be POST certified if their township is larger than 15,000 residents. If the township is less than 15,000, they can be elected without having category I or category II POST certification.

Roll call on Senate Bill No. 462:

YEAS—19.

NAYS—Hardy, Settelmeyer—2.

Senate Bill No. 462 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 469.

Bill read third time.

Remarks by Senators Denis, Settelmeyer, Pickard, Hammond and Dondero Loop.

SENATOR DENIS:

Senate Bill No. 469 revises provisions affecting school districts that have more than 100,000 pupils enrolled in its public schools, which currently is the Clark County School District, by removing the requirement that each school associate superintendent oversee no more than 25 local school precincts and adding utilities to the list of responsibilities that a large school district cannot transfer to a local school precinct.

The bill also classifies, as restricted, the money that is necessary for a large school district to carry out the responsibilities that are not transferred to a local school precinct and increases the percentage of unrestricted money to be allocated to the local school precincts from 85 percent to 90 percent. Finally, funding allocations will be based on the district's estimates for attendance for the following year, rather than being determined by the number of students attending in the previous calendar quarter.

SENATOR SETTELMEYER:

Having been here in 2015, when a similar bill came about this subject, I am concerned about section 1.5 of the bill. We had determined then that one principal should be overseeing 25 administrators, and in this section we are doing away with that. It is as if they have not been able to meet the requirement, and rather than try to meet the requirement, we are just getting rid of it. I find that problematic. In section 2.5, by saying "whatever is necessary" and adding utilities to the bill, we are further removing funds. We had the ability to cook a pie that could feed 21 people, and we are allowing them to take the ingredients out before making the pie. We have now shrunk the pie that could have fed 21 down to feeding 5, and under section 1(b)3, we are shrinking that down to 90 percent. In section 3, we are saying we will no longer count the actual number of students; instead, we will do estimates. I find this problematic. It is a roll-back of what we did a while ago, and I will be voting "no".

SENATOR PICKARD:

I rise in opposition to this bill. I supported it out of Committee because the representations made during the vote were that section 2 would be deleted. In the latest amendment, portions of this section have been put back in that allow the large school district to strip money out before the money is distributed to the local precinct level. The purpose of the recall was to put the power in the people and schools. The large school district that was subject to that has never fully complied with the requirements of the law passed in 2015, to my understanding. This replacement of the difficult language has caused me to change my mind, and I will be voting "no" on this bill.

SENATOR HAMMOND:

My colleague from Senate District 20 mentioned language that was reinserted into this bill in section 2.5 of amendment after it was deleted from section 2. What is worrisome to me is the language allowing the district to look at Nevada Revised Statute 388G.610 and develop a laundry list of items they can determine are essential for the operation of schools in Clark County. They can then take that money and keep it, and over 90 percent goes to the school sites. Our purpose was to put more power and responsibility in the school sites so parents would have more say at each school student attends. I talked to several principals during the interim, and time and time again, they said they would like to be able to do things locally like look at their grounds and ground keeping and hire personnel at a lower cost and use that savings to put additional personnel in the classroom. This section allows a school district to keep all the money to do grounds keeping at the schools at a higher cost. There may be other instances where we are keeping money at the central office and not putting it at the school level where the principals could make decisions based on the needs of their schools and students. For these reasons, I cannot support this bill. I appreciate what is trying to be done by the bill and know there has been a lot of work, but for these reasons, I cannot support it.

SENATOR DENIS:

As part of this bill, we have asked that schools get 85 percent of the funds to be able to make decisions. In the interim, schools were billed for transportation, utilities, police and other things. What we are doing with this bill is fixing that problem. Now, we ask principals to keep track of how much money they spend for police, transportation and other things. They have to log it and give it back to the school district. They have a service-level agreement between the school and the district office to pay for that. This bill says the district pays for all of that up front rather than having the principals keep track of it. The funds will be restricted for those sorts of expenses. There is a list of things including utilities, and the district will cover them. Ninety percent of what is left will go to the schools. The principal does not have to keep track of all these pieces and can decide how to spend the money and not track all of these other items.

When we deleted section 2, we realized we had deleted the list and allowed the school district to decide everything, creating the possibility the schools could end up with less. This is why the amendment was brought, to add the list back into the bill of what the district could restrict. Schools get 90 percent. The remaining 10 percent, which according to the CFO of Clark County School District, may be too low and will have to cover sports programs, teacher training and other things. This is unrestricted money, and they have to figure out how to use it. This is a great bill because it fixes the problems inherent in the way it was set up in 2015. We are giving flexibility.

As regards to the associate superintendents, we are giving more flexibility in this bill because it may be appropriate for some of these to supervise fewer schools and some more in some instances. This allows the district the opportunity to make the choice on how to meet the needs of those schools better. That is why it was removed. I urge your support.

SENATOR DONDERO LOOP:

We have gone from 209 school districts in this State to 17, and that was at a time we did not have a large population in Clark County. We have since grown and have been through many superintendents in this State in every county. This move is exactly what needs to happen because it will save approximately $1.5 million. It also gives our new Clark County Superintendent, and others who may follow, the vision they have been hired to produce and seek. I have been in almost every school in Clark County, and I have met many principals who have told me they are in the business of educating children. They do not want to be paying for security, cleaning or grounds. They want to be educating children and to be the curriculum leaders we have hired them to be. I urge your support.

Roll call on Senate Bill No. 469:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 469 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 474.

Bill read third time.

Remarks by Senators Ohrenschall, Settelmeyer, Pickard, Denis, Spearman and Seevers Gansert.

SENATOR OHRENSCHALL:

Senate Bill No. 474 requires an applicant for a driver's license who is 16 or 17 years of age to complete at least 75 hours of supervised driving experience with a licensed driver, including at least 15 hours during darkness. This experience must be evidenced to the Nevada Department of Motor Vehicles in a log or order for that teenager to try to obtain a driver's license. There was evidence brought to the Committee about how graduated driver's license programs prevent crashes and fatalities among teens. This is an important step in trying to help them get more behind-the-wheel experience in a safe situation with a licensed driver, and it has the potential to reduce crashes and fatalities. I urge its passage.

SENATOR SETTELMEYER:

I appreciate some of the amendments done to Senate Bill No. 474. When the bill first came out, it would have prevented a teen from being able to drive from between the age of 16 years of age to 16 years, 9 months. It would also have affected driving conditions for drivers up to the age of 20 years old. I appreciate the amendments to remove these things. I am concerned about raising the hours needed from 50 to 75. This is a 50-percent increase and would make us the most restrictive graduated driver's license in the United States. I understand the desire to decrease accidents by increasing the time, but the reality is that many parents are forging the documents and are not being truthful now about the 50 hours. I am afraid they will continue to forge those documents.

I am bothered by the concept of a social creep in this bill. When my daughter got her license, I was happy because it meant she could pick up her sister. There were days when I would work for 30 hours straight. My daughter was able to drive, which is lucky, because I should not have been on the road. I believe coursework in driver's education through the community college is far more instructional than being taught by the average parent. That did not make it into this bill; therefore, I cannot support Senate Bill No. 474.

SENATOR PICKARD:

I had a conversation with a client of mine last night about a different bill that would have allowed children as young as 14 to obtain a license with the consent of their parents. This parent is a single mom with a child who has just turned 16 years old. When we discussed this bill, she explained to me that she has to work, and her 16 year old has just recently been able to take over moving the other children around. I have a concern if we add half-again as many hours to the requirements to obtain a license, which were difficult for her to achieve in the first place, it would have been impossible for her 16 year old to get a driver's license. I share the sentiment regarding the desire to reduce crashes, which is always in Nevada's interest. This bill, however, will hurt the most vulnerable families where there is only one breadwinner and a certain number of hours available to spend training their children. They cannot always afford driver's training or other programs. While this bill has good intentions, I am going to have to vote "no" on it.

SENATOR DENIS:

I stand in support of this bill. As we were listening to the bill in Committee, I appreciated my colleague who brought up the way it was originally written, where teens would have had to wait longer to get their driver's license. I appreciate that the bill was changed so that the license can still be gotten at 16. I support the bill because when you review the statistics, kids who are driving at that age are the ones who are most likely to have crashes. I want our kids to be safe. While I would like them to be able to take their siblings and family to places, we want them to be safe. This will allow them to have more time training and be safer, and this is why I support it. We want our kids to be safe, and the provisions in this bill will allow them to do that.

SENATOR SPEARMAN:

I rise in support of the bill, not for personal reasons, but for the prudent facts we should look at when we discuss this issue. This is not about simply having a child pick up a sibling or drive hay to the factory. These facts are from a website I reviewed, and I have asked they be included in the record. Motor vehicle crashes are the leading cause of death among teens according to the Center for Disease Control's Teen Driver Fact Sheet. According to the National Highway Traffic Safety Administration, 1,908 drivers aged 15 to 20 died in motor vehicle crashes in 2016, unchanged from 1,903 in 2015. This did not change in 2017, but it seems it is climbing faster. We are not saying young people cannot get a driver's license; we are saying we want them to be safe. In states having policies such as this, the insurance rate for most drivers comes down.

SENATOR SEEVERS GANSERT:

As the mother of four children who went through the graduated license process, I found it extremely effective. Fifty hours of daylight training and ten in the evening was effective and adding a driver's education course would make this something I could support. As it stands, it could become too onerous. We need to allow our children to become responsible in a number of ways, and this is an area in which they need to become mature and responsible. In my experience, the current requirements were effective, so I will not be supporting this bill. This is not because I do not think children need to be safe, it is because I think the program we have is effective. If we added a driver's education class, I could support it this legislation, but I cannot support it by just increasing the hours.

SENATOR OHRENSCHALL:

I would like to cite a study done by the Insurance Institute for Highway Safety that discusses reducing teen crashes and fatalities. It states that the best graduated driver's license programs are the ones that have higher numbers of hours. This bill would advance us toward that best practice. It also suggests delaying when a child can move from an instructional permit to a full driver's license and restricting nighttime driving hours as ways to decrease teen crashes and fatalities. These two things are not contemplated in this bill. There is an increase in behind-the-wheel hours in this bill however, and if a young person is able to get this done within the six months, it should not delay getting a license any longer than it takes now. The bill adds an extra 25 hours of daytime and 5 hours of nighttime driving practice, but this extra experience will lead to safer teen drivers and reduce our fatalities. Between 2013 and 2017, 168 15 to 20 year olds were killed in crashes in Nevada. I do not know if this bill will lower this number, but it is a step that may do so, and it is

worth the try. It will head us in the right direction in terms of all the studies I have reviewed, and I urge its passage.

SENATOR PICKARD:

To continue that logic, if we waited until children were 17 or 18 and gave them many years of experience, we would also reduce the rates. This is good logic, but after a discussion with my constituent who deals with real world, current-day experiences on this issue, there is a balance that needs to be struck. We have heard a lot tonight about trying to find the right balance, and this is probably not the right bill in which to be spending a lot of time trying to do this. This is a great example of where a balance needs to be struck between trying to encourage insurance rates to go down and allowing families who need that second driver the most to have the opportunity.

Roll call on Senate Bill No. 474:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 474 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 481.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 481 authorizes the commissioner of the Division of Insurance of the Department of Business and Industry to issue a certificate of authority to a self-funded multiple employer welfare arrangement that meets certain requirements. Additionally, the bill allows only one short-term health-insurance policy with a 185-day maximum coverage limit to be sold in any 365-day period. The bill also requires a carrier that offers an individual health-benefit plan to include on either its enrollment website or printed enrollment information a notice stating that a consumer may be eligible to certain financial benefits on the Silver State Health Insurance Exchange. However, such notice is not required if the federal financial assistance is not available. Finally, the bill authorizes the Exchange to allow individuals to purchase health-insurance policies from outside the rating area where they reside.

Roll call on Senate Bill No. 481:

YEAS—21.

NAYS—None.

Senate Bill No. 481 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 486.

Bill read third time.

Remarks by Senator Cannizzaro.

Senate Bill No. 486 deems a traffic citation to be a lawful complaint when filed with the court, regardless of whether the citation was prepared electronically or by other means. The measure provides that when a person physically receives a copy of a traffic citation, receipt of the citation must be deemed personal service of a notice to appear in court to adjudicate the citation.

Roll call on Senate Bill No. 486:

YEAS—21.

NAYS—None.

Senate Bill No. 486 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 491.

Bill read third time.

Remarks by Senator Washington.

Senate Bill No. 491 requires an insurance company to forward an application for a salvage title or nonrepairable vehicle certificate to the Department of Motor Vehicles as soon as practicable when it has acquired a salvage motor vehicle as a result of a settlement and the owner of the motor vehicle does not provide an endorsed certificate of title to the insurance company within 30 days. The Department may issue a salvage title or a nonrepairable vehicle certificate to 1) a salvage pool that obtains the vehicle from an insurance company and the vehicle is abandoned at the salvage pool facility for more than 30 days, and 2) a charitable organization that obtains a vehicle through a donation and is unable to obtain an endorsed certificate of title. Within two days after receiving all necessary documents, the Department must issue a salvage title for the vehicle.

The Department may issue a salvage title to an applicant who is unable to satisfy the Department by the submission of various documents that he or she is entitled to the salvage vehicle if the applicant files a bond in an amount equal to 25 percent of the value of the vehicle with the Department.

The measure adds trailers used to transport motor vehicles, boats or personal watercraft to the list of items that may be included in a lien by an operator of a storage unit if an occupant's storage fees are not paid.

Roll call on Senate Bill No. 491:

YEAS—21.

NAYS—None.

Senate Bill No. 491 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 493.

Bill read third time.

The following amendment was proposed by Senator Dondero Loop:

Amendment No. 619.

SUMMARY—~~[Creates the Task Force on Employee Misclassification.]~~ Revises provisions relating to misclassification of employees. (BDR 53-1087)

AN ACT relating to employee misclassification; requiring certain state agencies to share information relating to suspected employee misclassification under certain circumstances; creating the Task Force on Employee Misclassification; providing its duties; making various other changes relating to employee misclassification; providing an administrative penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill requires the offices of the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Attorney General to share amongst their respective offices information relating to

suspected employee misclassification that is received in the performance of their official duties under certain circumstances. Section 4 of this bill defines "employee misclassification" as the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

Section 8 of this bill creates and sets forth the membership of the Task Force on Employee Misclassification. Section 9 of this bill sets forth the duties of the Task Force.

Existing law defines "independent contractor." (NRS 616A.255) Section 11.5 of this bill expands that definition. Existing law also provides that a person is conclusively presumed to be an independent contractor in certain circumstances. (NRS 608.0155) Section 10.5 of this bill clarifies that such an independent contractor must hold a state or local business license to operate in this State. Existing law requires an employer to post a notice upon his or her premises that contains certain information. (NRS 616A.490) Section 11.7 of this bill requires such a notice to include the relevant definitions of "employee" and "independent contractor." Section 11.3 of this bill authorizes the Labor Commissioner to impose various administrative penalties against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify an employee. Section 13.5 of this bill authorizes a person to file a complaint with certain administrative agencies to seek an administrative penalty.

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

Section 1. Chapter 607 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Employee" means a person who performs services for wages for an employer. The term does not include an independent contractor.*

Sec. 4. *"Employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

Sec. 5. *"Employer" includes, without limitation:*

1. The State of Nevada, any state agency, or any county, city, town, school district or other unit of local government;

2. Any public or quasi-public corporation; and

3. Any person, firm, corporation, partnership or association.

Sec. 6. *"Independent contractor" has the meaning ascribed to it in NRS 616A.255.*

Sec. 7. *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:*

1. Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.

2. May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

Sec. 8. *1. The Task Force on Employee Misclassification, consisting of 10 members, is hereby created.*

2. The following persons shall serve as ex officio members of the Task Force:

(a) The Labor Commissioner or the Labor Commissioner's designee.

(b) The Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's designee.

(c) The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Administrator's designee.

(d) The Executive Director of the Department of Taxation or the Executive Director's designee.

(e) The Attorney General or the Attorney General's designee.

3. The following persons shall serve as appointed members of the Task Force:

(a) One person who represents an employer located in this State that employs more than 500 full-time or part-time employees.

(b) One person who represents an employer located in this State that employs 500 or fewer full-time or part-time employees.

(c) One person who is an independent contractor in this State.

(d) One person who represents organized labor in this State.

(e) One person who represents the general public in this State.

4. The members of the Task Force described in subsection 3:

(a) Must be appointed by the Legislative Commission from recommendations submitted to the Legislative Commission by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly.

(b) After the initial terms, serve a term of 2 years and until their respective successors are appointed. A member may be reappointed in the same manner as the original appointments.

5. Any vacancy occurring in the appointed membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

6. The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.

7. At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.

8. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

9. The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.

10. Members of the Task Force serve without compensation.

11. The ~~[Legislative Counsel Bureau]~~ Labor Commissioner shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.

Sec. 9. *The Task Force on Employee Misclassification shall:*

1. Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.

2. Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.

3. Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.

4. On or before July 1, 2020, and on or before July 1 of each subsequent year, submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.

Sec. 10. *1. The Task Force on Employee Misclassification may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.*

2. The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.

3. The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the subcommittee.

Sec. 10.5. NRS 608.0155 is hereby amended to read as follows:

608.0155 1. For the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance or bonding ~~[.]~~ *in order to operate in this State;* and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:

(I) Purchase or lease of ordinary tools, material and equipment regardless of source;

(II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and

(III) Lease of any work space from the principal required to perform the work for which the person was engaged.

➥ The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the basis of the amount of income the person receives, the equipment commonly used and the expenses commonly incurred in the trade or profession in which the person engages.

2. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in

paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee.

3. As used in this section, "foreign national" has the meaning ascribed to it in NRS 294A.325.

Sec. 11. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, *and section 7 of this act,* information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

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

3. The Administrator may, in accordance with a cooperative agreement among all participants in the statewide longitudinal data system developed pursuant to NRS 400.037 and administered pursuant to NRS 223.820, make the information obtained by the Division available to:

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

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

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

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

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

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

(d) The Department of Taxation;

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

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

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

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

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

7. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

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

the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

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

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

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

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

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

(a) Uses or permits the use of the list for any political purpose;

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

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

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

Sec. 11.3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty provided by law, the Labor Commissioner may impose an administrative penalty against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an employee of the employer. An administrative penalty imposed pursuant to this section must be:

(a) For a first offense committed by an employer who unintentionally misclassified or otherwise failed to properly classify a person as an employee of the employer, a warning issued to the employer by the Labor Commissioner.

(b) For a first offense committed by an employer who willfully misclassified or otherwise failed to properly classify a person as an employee of the employer, a fine of not more than $5,000 for each employee who was misclassified imposed by the Labor Commissioner.

(c) For a second offense:

(1) A fine of $5,000 for each employee who was misclassified imposed by the Labor Commissioner; and

(2) The suspension of the state business license of the employer for not more than 1 year.

(d) For a third offense, the revocation of the state business license of the employer. An employer whose state business license was revoked pursuant to this paragraph shall not apply to the Secretary of State for a state business license for a period of 3 years, beginning on the date of the revocation of the employer's state business license.

2. If the state business license of an employer is suspended or revoked pursuant to subsection 1, the Labor Commissioner shall submit a notice of the suspension or revocation to the Secretary of State. The Labor Commissioner shall provide a copy of such notice to the employer.

3. Before the Labor Commissioner may enforce an administrative penalty against an employer for misclassifying or otherwise failing to properly classify an employee of the employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose an administrative penalty as set forth in subsection 1 if the Labor Commissioner finds that:

(a) The employer misclassified a person as an independent contractor; or

(b) The employer otherwise failed to properly classify a person as an employee of the employer.

4. As used in this section:

(a) "Employee" has the meaning ascribed to it in NRS 608.010.

(b) "Employer" has the meaning ascribed to it in NRS 608.011.

(c) "Independent contractor" has the meaning ascribed to it in NRS 616A.255.

Sec. 11.5. NRS 616A.255 is hereby amended to read as follows:

616A.255 "Independent contractor" means any person who renders service for a specified recompense ~~[for a specified result, under the control of the person's principal as to the result of the person's work only and not as to the means by which such result is accomplished.]~~ *and who:*

1. Has been and will continue to be free from control or direction exercised by a person with whom he or she entered into a contract of service or a person for whom he or she performs a service;

2. Performs a service that is outside of the scope of the usual course of business of the business for which the service is performed; and

3. Satisfies at least one of the following conditions:

(a) Performs a service in the course of a trade, occupation, profession or business that is established independently from the person with whom he or she contracts to perform or performs a service and which is of the same nature as that involved in the contract of service of performance of a service;

(b) Meets the requirements set forth in paragraph (a) of subsection 1 of NRS 608.0155; or

(c) Meets the requirements set forth in paragraph (b) of subsection 1 of NRS 608.0155.

Sec. 11.7. NRS 616A.490 is hereby amended to read as follows:

616A.490 *1.* Every employer shall post a notice upon his or her premises in a conspicuous place identifying the employer's industrial insurer. The notice must ~~[include]~~ *:*

(a) Include the insurer's name, business address and telephone number and the name, business address and telephone number of its nearest adjuster in this State. The employer shall at all times maintain the notice provided for the information of his or her employees.

(b) Prominently set forth any applicable definitions of "employee" and "independent contractor," as those terms are defined in chapters 616A to 616D, inclusive, of NRS.

Sec. 12. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, *and section 7 of this act,* information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the

proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

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

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

(d) The Department of Taxation; and

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

➥ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by 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 the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

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

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and

(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

➥ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 13. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, *and section 7 of this act,* the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

Sec. 13.5. Chapter 616D of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer who is found after a hearing conducted in accordance with subsection 3 to have misclassified a person as an independent contractor is liable to such person for:

(a) Treble damages, including, without limitation, lost wages or benefits;

(b) Reasonable attorney's fees; and

(c) Costs.

2. A person may file a complaint alleging the misclassification of the person as an independent contractor with the Administrator, the Fraud Control Unit for Industrial Insurance or any other appropriate state agency. The Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section shall make a determination on the allegations of the complaint within 120 days after receipt of the complaint. If the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section finds that an employer misclassified an employee as an independent contractor, the Administrator, the Fraud Control Unit for

Industrial Insurance or other state agency, as applicable, may impose the penalties set forth in subsection 1.

3. A hearing conducted pursuant to this section must be held in accordance with chapter 233B of NRS.

4. Each party may petition for judicial review of the decision of the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that holds a hearing on a complaint submitted pursuant to subsection 2 in the manner provided by chapter 233B of NRS.

5. As used in this section, "Fraud Control Unit for Industrial Insurance" means the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

Sec. 14. 1. As soon as practicable after passage and approval of this act, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall solicit applications and make recommendations to the Legislative Commission for the appointment of members to the Task Force on Employee Misclassification who are described in subsection 3 of section 8 of this act.

2. As soon as practicable after July 1, 2019, the Legislative Commission shall, after considering each recommendation received pursuant to subsection 1, appoint the members of the Task Force on Employee Misclassification described in subsection 3 of section 8 of this act.

3. The terms of the members of the Task Force on Employee Misclassification appointed pursuant to subsection 2 expire on June 30, 2021.

Sec. 15. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 16. 1. This section and sections 14 and 15 of this act become effective upon passage and approval.

2. Sections 1 to ~~[~~13,~~]~~ 13.5, inclusive, of this act become effective on July 1, 2019.

Senator Dondero Loop moved the adoption of the amendment.

Remarks by Senator Dondero Loop.

Senate Bill No. 493 requires the Office of the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry; the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Office of the Attorney General to share amongst their respective offices information regarding suspected employee misclassification.

The bill also establishes the Task Force on Employee Misclassification and sets forth its duties. In addition, the bill authorizes the Labor Commissioner to impose an administrative penalty against an employer who misclassifies a person as an independent contractor or who otherwise fails to properly classify an employee. Finally, the bill authorizes a person that has been classified to file as an independent contractor to commence civil action against his or her employer if the person first exhausts administrative remedies.

Amendment adopted.

Senator Woodhouse moved that the bill be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

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

Motion carried.

Senate in recess at 6:37 p.m.

SENATE IN SESSION

At 6:57 p.m.

President Marshall presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that Senate Bill No. 155 be taken from the General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 151.

Bill read third time.

The following amendment was proposed by Senator Ratti:

Amendment No. 635.

SUMMARY—Revises provisions related to certain proceedings concerning property. (BDR 3-516)

AN ACT relating to property; removing and revising certain provisions relating to actions for summary eviction; reorganizing procedures for summary eviction of a tenant of a commercial premise; revising provisions governing notices to surrender possession of real property or a mobile home; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. (NRS 40.253) Section 1.7 of this bill removes the provisions governing the summary eviction procedure for a tenant of a commercial premise, thereby making section 1.7 solely applicable to summary eviction for the tenant of any dwelling, apartment, mobile home or recreational vehicle. Section 1 of this bill reorganizes the summary eviction procedure for a tenant of a commercial premise.

Existing law requires the landlord or the landlord's agent to serve a notice in writing informing the tenant that he or she must pay the rent or surrender the premises at or before the fifth full day following the day of service.

(NRS 40.253) Section 1.7 of this bill increases the period of time that a tenant has to act after receiving such notice from 5 full days to 7 judicial days.

Existing law authorizes a court, in an action for summary eviction, to order the removal of a tenant in default for rental payments. Existing law requires a sheriff or constable to remove such a tenant within 24 hours after the court issues such an order. (NRS 40.253) Section 1.7 revises the period of time before the removal of the tenant . ~~[to]~~ Section 1.7 requires a sheriff or constable to post the order for removal in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. Section 1.7 then requires the sheriff or constable to remove the tenant not earlier than 24 hours ~~[and]~~ but not ~~[more]~~ later than 36 hours after the ~~[court]~~ posting of the order ~~[.]~~ by the sheriff or constable.

Existing law authorizes a landlord to utilize procedures for summary eviction when a tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of certain unlawful detainers. (NRS 40.254) Section 2 of this bill eliminates the ability of a landlord of a low-rent housing program operated by a public housing authority to utilize such procedures for summary eviction. Section 2 also provides that the term "dwelling unit" does not include a ~~[low-income]~~ unit ~~[and defines]~~ of a low-income housing project. Section 1.7 also provides that its provisions do not apply to a low-income housing project. Sections 1.7 and 2 define "low-income ~~[unit" for the purpose of section 2,]~~ housing project" for such purposes.

Existing law provides that a person who holds over and continues in possession of real property or a mobile home which has been foreclosed or sold under certain circumstances may be removed pursuant to certain proceedings after a 3-day notice to surrender has been served. (NRS 40.255) Section 3 of this bill additionally provides that an existing lease of residential property will remain in effect if the property is transferred or sold to a new owner under certain circumstances. Section 3 provides for the duties and obligations of the tenant and the new owner.

Existing law requires a tenant to be served with certain notices to surrender. Existing law authorizes such service: (1) by delivering a copy of the notice to the tenant personally, in the presence of a witness, or by a sheriff, constable or certain other persons; (2) by leaving the notice with a person who meets certain qualifications at the place of residence or business of the tenant; or (3) by posting the notice on the rental property, delivering the notice to the person living there, if possible, and mailing a copy to the tenant. Existing law requires that proof of service of such notices must be filed with the court before the court orders removal or issues a writ of restitution. (NRS 40.280) Section 4 of this bill provides that a notice to surrender the premises must be served by a sheriff, a constable, certain persons licensed as a process server or the agent of an attorney under certain circumstances. Section 4 of this bill prescribes certain requirements for proof of service. Sections 4.5-7.5 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 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ *As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.*

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver a copy of the notice to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent; and

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order.

4. If the tenant files an affidavit pursuant to paragraph (b) of subsection 3 at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance of the tenant with a notice served pursuant to subsection 1 or 2:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the commercial premises is located or to the district court of the county in which the commercial premises is located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant pursuant to subsection 1 or 2 or in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed an affidavit described in paragraph (b) of subsection 3 and a file-stamped copy of the affidavit has been received by the landlord or the landlord's agent, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of an affidavit pursuant to paragraph (b) of subsection 3, regardless of the information contained in the affidavit or the filing by the landlord of an affidavit pursuant to paragraph (b) of subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency

of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. A tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant, whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs due, if any, claimed by the landlord pursuant to 118C.230 and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the costs determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks.

Sec. 1.3. NRS 40.215 is hereby amended to read as follows:

40.215 As used in NRS 40.215 to 40.425, inclusive, *and section 1 of this act*, unless the context requires otherwise:

1. "Dwelling" or "dwelling unit" means a structure or part thereof that is occupied, or designed or intended for occupancy, as a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

2. "Landlord's agent" means a person who is hired or authorized by the landlord or owner of real property to manage the property or dwelling unit, to enter into a rental agreement on behalf of the landlord or owner of the property or who serves as a person within this State who is authorized to act for and on behalf of the landlord or owner for the purposes of service of process or receiving notices and demands. A landlord's agent may also include a successor landlord or a property manager as defined in NRS 645.0195.

3. "Mobile home" means every vehicle, including equipment, which is constructed, reconstructed or added to in such a way as to have an enclosed room or addition occupied by one or more persons as a residence or sleeping place and which has no foundation other than wheels, jacks, skirting or other temporary support.

4. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

5. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" or "park" does not include those areas or tracts of land, whether within or outside of a park, where the lots are held out for rent on a nightly basis.

6. "Premises" includes a mobile home.

7. "Recreational vehicle" means a vehicular structure primarily designed as temporary living quarters for travel, recreational or camping use, which may be self-propelled or mounted upon or drawn by a motor vehicle.

8. "Recreational vehicle lot" means a portion of land within a recreational vehicle park, or a portion of land so designated within a mobile home park, which is rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

9. "Recreational vehicle park" means an area or tract of land where lots are rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

10. "Short-term tenancy" means a tenancy in which rent is reserved by a period of 1 week and the tenancy has not continued for more than 45 days.

Sec. 1.7. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home ~~[,]~~ *or* recreational vehicle ~~[or commercial premises]~~ with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) ~~[At]~~ *On* or before ~~[noon of]~~ *5 p.m. on* the ~~[fifth full]~~ *seventh judicial* day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the

tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in ~~[paragraph (a) of]~~ subsection ~~[1]~~ *2* of ~~[NRS 40.280.]~~ *section 1 of this act.* If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to *post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall* remove *the* tenant ~~[within 24]~~ *not earlier than 24* hours *but not ~~[more]~~ later than 36 hours* after ~~[receipt]~~ *the posting* of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or

willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home ~~[,]~~ *or* recreational vehicle ~~[or commercial premises]~~ are located or to the district court of the county in which the dwelling, apartment, mobile home ~~[,]~~ *or* recreational vehicle ~~[or commercial premises]~~ are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to *post the order in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. The sheriff or constable shall* remove the tenant ~~[within 24]~~ *not earlier than 24* hours *but not ~~[more]~~ later than 36 hours* after ~~[receipt]~~ *the posting* of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the

tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~[or 118C.230]~~ for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant, ➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 ~~[or 118C.230]~~ and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of ~~[a]~~ *:*

(a) A mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215 ~~[.]~~ *; or*

(b) A low-income housing project.

11. As used in this section, "low-income housing project" has the meaning ascribed to it in ~~[26]~~ 42 U.S.C. § ~~[42(g).]~~ 1437a(b)(1).

Sec. 2. NRS 40.254 is hereby amended to read as follows:

40.254 1. Except as otherwise provided by specific statute, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when the tenant of a dwelling unit, ~~[part of a low-rent housing program operated by a public housing authority,]~~ a mobile home or a recreational vehicle is guilty of an unlawful detainer pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the landlord's agent may utilize the summary procedures for eviction as provided in NRS 40.253 except that written notice to surrender the premises must:

(a) Be given to the tenant in accordance with the provisions of NRS 40.280;

(b) Advise the tenant of the court that has jurisdiction over the matter; and

(c) Advise the tenant of the tenant's right to:

(1) Contest the notice by filing before the court's close of business on the fifth judicial day after the day of service of the notice an affidavit with the court that has jurisdiction over the matter stating the reasons why the tenant is not guilty of an unlawful detainer; or

(2) Request that the court stay the execution of the order for removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted.

2. The affidavit of the landlord or the landlord's agent submitted to the justice court or the district court must state or contain:

(a) The date when the tenancy commenced, the term of the tenancy and, if any, a copy of the rental agreement. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.

(b) The date when the tenancy or rental agreement allegedly terminated.

(c) The date when written notice to surrender was given to the tenant pursuant to the provisions of NRS 40.251, 40.2514 or 40.2516, together with any facts supporting the notice.

(d) The date when the written notice was given, a copy of the notice and a statement that notice was served in accordance with NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.

(e) A statement that the claim for relief was authorized by law.

3. If the tenant is found guilty of unlawful detainer as a result of the tenant's violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

4. For the purpose of this section, the term "dwelling unit" does not include a ~~[low-income]~~ unit ~~[.]~~ of a low-income housing project. As used in this subsection, "low-income ~~[unit"]~~ housing project" has the meaning ascribed to it in ~~[26]~~ 42 U.S.C. § ~~[42.]~~ 1437a(b)(1).

Sec. 2.5. NRS 40.2545 is hereby amended to read as follows:

40.2545 1. In any action for summary eviction pursuant to NRS 40.253 or 40.254 ~~[,]~~ *or section 1 of this act*, the eviction case court file is sealed automatically and not open to inspection:

(a) Upon the entry of a court order which denies or dismisses the action for summary eviction; or

(b) Thirty-one days after the tenant has filed an affidavit described in subsection 3 of NRS 40.253 ~~[,]~~ *or subsection 3 of section 1 of this act*, if the landlord has failed to file an affidavit of complaint pursuant to subsection 5 of NRS 40.253 *or subsection 5 of section 1 of this act* within 30 days after the tenant filed the affidavit.

2. In addition to the provisions for the automatic sealing of an eviction case court file pursuant to subsection 1, the court may order the sealing of an eviction case court file:

(a) Upon the filing of a written stipulation by the landlord and the tenant to set aside the order of eviction and seal the eviction case court file; or

(b) Upon motion of the tenant and decision by the court if the court finds that:

(1) The eviction should be set aside pursuant to Rule 60 of the Justice Court Rules of Civil Procedure; or

(2) Sealing the eviction case court file is in the interests of justice and those interests are not outweighed by the public's interest in knowing about the contents of the eviction case court file, after considering, without limitation, the following factors:

(I) Circumstances beyond the control of the tenant that led to the eviction;

(II) Other extenuating circumstances under which the order of eviction was granted; and

(III) The amount of time that has elapsed between the granting of the order of eviction and the filing of the motion to seal the eviction case court file.

3. If the court orders the eviction case court file sealed pursuant to this section, all proceedings recounted in the eviction case court file shall be deemed never to have occurred.

4. As used in this section, "eviction case court file" means all records relating to an action for summary eviction which are maintained by the court, including, without limitation, the affidavit of complaint and any other pleadings, proof of service, findings of the court, any order made on motion as provided in Nevada Rules of Civil Procedure, Justice Court Rules of Civil Procedure and local rules of practice and all other papers, records, proceedings and evidence, including exhibits and transcript of the testimony.

Sec. 3. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as otherwise provided in subsections 2 , *4* and ~~[7,]~~ *9*, 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

surrender has been served upon the person 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 the person, or against another person under whom the person 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 the person, or by another person under whom the person 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 the person, or by another person under whom the person claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by the person, or by another person under whom the person claims, and the title under the sale has been perfected.

2. *Except as otherwise provided in subsection 4, if the property has been transferred or sold as a residential sale, absent an agreement between the new owner and the tenant to modify or terminate an existing lease:*

(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;

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property; and

(c) Upon termination of the previous owner's interest in the property by residential transfer or sale, the previous owner shall transfer the security deposit in the manner set forth in paragraph (a) of subsection 1 of NRS 118A.244. The successor has the rights, obligations and liabilities of the former landlord as to any securities which are owed under this section or NRS 118A.242 at the time of transfer.

3. The new owner pursuant to subsection 2 must provide a notice to the tenant or subtenant within 30 days after the date of the transfer or sale:

(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 the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the period of the lease term and states the amount held by the new owner for the security deposit; 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, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.

4. 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.]~~ *5.* During the notice period described in subsection ~~[2.]~~ *4:*

(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 that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.

~~[4.]~~ *6.* The notice described in subsection ~~[2]~~ *4* 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 the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection ~~[2;]~~ *4;* 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, including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254 . ~~[.~~

~~5. *or section 1 of this act.]~~

7. 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 ~~[.]~~ *4.*

~~[6.]~~ *8.* 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]~~ *4* 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.]~~ *4*.

~~[7.]~~ *9*. This section does not apply to the tenant of a mobile home lot in a mobile home park.

~~[8.]~~ *10*. 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. 4. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253 ~~[,]~~ *and section 1 of this act,* the notices required by NRS 40.251 to 40.260, inclusive, must be served ~~[:~~

~~(a) By delivering a copy to the tenant personally, in the presence of a witness. If service is accomplished]~~ by the sheriff, *a* constable , ~~[or]~~ a person who is licensed as a process server pursuant to chapter 648 of NRS ~~[, the presence of a witness is not required.]~~ *or the agent of an attorney licensed to practice in this State:*

(a) By delivering a copy to the tenant personally.

(b) If the tenant is absent from the tenant's place of residence or from the tenant's 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 the tenant's place of residence or place of business.

(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. The notices required by NRS 40.230, 40.240 and 40.414 must be served upon an unlawful or unauthorized occupant:

(a) Except as otherwise provided in this paragraph and paragraph (b), by delivering a copy to the unlawful or unauthorized occupant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.

(b) If the unlawful or unauthorized occupant is absent from the real property, by leaving a copy with a person of suitable age and discretion at the property and mailing a copy to the unlawful or unauthorized occupant at the

place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."

(c) If a person of suitable age or discretion cannot be found at the real property, by posting a copy in a conspicuous place on the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."

3. Service upon a subtenant may be made in the same manner as provided in subsection 1.

4. Proof of service of any notice required by NRS 40.230 to 40.260, inclusive, must be filed with the court before:

(a) An order for removal of a tenant is issued pursuant to NRS 40.253 or 40.254;

(b) An order for removal of an unlawful or unauthorized occupant is issued pursuant to NRS 40.414; ~~[or]~~

(c) A writ of restitution is issued pursuant to NRS 40.290 to 40.420, inclusive ~~[.]~~ *; or*

(d) An order for removal of a commercial tenant pursuant to section 1 of this act.

5. Proof of service of *notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue* an order or writ filed pursuant to *paragraph (a), (b) or (c) of* subsection 4 must consist of:

(a) Except as otherwise provided in ~~[paragraphs]~~ *paragraph* (b) *:* ~~[and (c):]~~

(1) If the notice was served pursuant to ~~[paragraph (a) of]~~ subsection 1 ~~[or]~~ *, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice. If the notice was served by the agent of an attorney licensed in this State, the statement must be accompanied by a declaration, signed by the attorney and bearing the license number of the attorney, stating that the attorney:*

(I) Was retained by the landlord in an action pursuant to NRS ~~[40.290]~~ 40.230 to 40.420, inclusive;

(II) Reviewed the date and manner of service by the agent; and

(III) Believes to the best of his or her knowledge that such service complies with the requirements of this section.

(2) If the notice was served pursuant to paragraph (a) of subsection 2, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, as applicable, and a witness, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

~~[(2)]~~ *(3)* If the notice was served pursuant to ~~[paragraph (b) or (c) of subsection 1 or]~~ paragraph (b) or (c) of subsection 2, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery

or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) ~~[If the notice was served by a sheriff, a constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice.~~

~~(c)]~~ For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

6. Proof of <u>notice pursuant to NRS 40.230 to 40.260, inclusive, that must be filed before the court may issue</u> an order filed pursuant to paragraph (d) of subsection 4 must consist of:

(a) Except as otherwise provided in paragraphs (b) and (c):

(1) If the notice was served pursuant to subsection 2 of section 1 of this act, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, and a witness, as applicable, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date.

(2) If the notice was served pursuant to paragraph (b) or (c) of subsection 1, an affidavit or declaration signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service or confirmation of actual delivery by a private postal service.

(b) If the notice was served by a sheriff, a constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the date and manner of service. The statement must also include the number of the badge or license of the person who served the notice.

(c) For a short-term tenancy, if service of the notice was not delivered in person:

(1) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

(I) Time and date the request for service was made by the landlord or the landlord's agent;

(II) Time, date and manner of the service; and

(III) Fees paid for the service.

7. For the purpose of this section, an agent of an attorney licensed in this State shall only serve notice pursuant to subsection 1 if:

(a) The landlord has retained the attorney an action pursuant to NRS 40.290 to 40.420, inclusive; and

(b) The agent is acting at the direction and under the direct supervision of the attorney.

Sec. 4.5. NRS 40.385 is hereby amended to read as follows:

40.385 Upon an appeal from an order entered pursuant to NRS 40.253 ~~[.]~~ *or section 1 of this act:*

1. Except as otherwise provided in this subsection, a stay of execution may be obtained by filing with the trial court a bond in the amount of $250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.

2. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253 ~~[.]~~ *or section 1 of this act.*

Sec. 5. (Deleted by amendment.)

Sec. 6. 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 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;

(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;

(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 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 not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must 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 the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and 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 the property is sold and 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, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;~~

~~(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 and to the place where the leased property is situated, if different; 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 and mailing a copy to you at the place where the leased property is situated.]~~

If the property is sold and 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. 7. NRS 107.087 is hereby amended to read as follows:

107.087 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 not later than:

(1) For a notice of default and election to sell, 100 days before the date of sale; or

(2) For a notice of sale, 15 days before the date of sale; 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 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 the grantor's successor in interest, in actual occupation of the premises not later than 15 days before the date of sale. The separate notice must 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 the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to surrender.

If the property is sold and 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 the property is sold and 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, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;~~

~~(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 and to the place where the leased property is situated, if different; 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 and mailing a copy to you at the place where the leased property is situated.]~~

If the property is sold and 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 posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or sheriff of the county in which the property is located.

5. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.0805.

Sec. 7.5. NRS 645H.520 is hereby amended to read as follows:

645H.520 1. Subject to the provisions of NRS 645H.770, the services an asset management company may provide include, without limitation:

(a) Securing real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;

(b) Providing maintenance for real property in foreclosure, including landscape and pool maintenance;

(c) Cleaning the interior or exterior of real property in foreclosure;

(d) Providing repair or improvements for real property in foreclosure; and

(e) Removing trash and debris from real property in foreclosure and the surrounding property.

2. An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:

(a) The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.

(b) After the expiration of the 30-day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the last known address of the homeowner or the tenant of the homeowner.

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

3. Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection 7 of NRS 40.253 ~~[.]~~ *or section 1 of this act, as applicable.*

Sec. 8. This act becomes effective on July 1, 2019.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 635 to Senate Bill No. 151 increases the time a tenant has to react to a notice to pay rent or be evicted and the time a tenant has before he or she will be removed pursuant to a court order. Absent an agreement between a new owner and a lessee, a residential lease remains in effect if a residential property is transferred or sold. The bill eliminates the ability for a landlord of a low-income public housing authority to make use of summary eviction procedures in some cases; increases the time provided after a notice to surrender has been served, and provides that an eviction notice must be served by a sheriff, a constable, a licensed process server or the agent of an attorney licensed to practice in Nevada.

Amendment adopted.

Bill read third time.

Remarks by Senators Ratti, Pickard, Settelmeyer and Spearman:

SENATOR RATTI:

Senate Bill No. 151 provides that a sheriff or constable must post an order for removal in a conspicuous place on the premises of a tenant within 24 hours after receiving an order from a court and that a sheriff or constable must then remove the tenant not earlier than 24 hours, nor later than 36 hours after posting the notice. Absent an agreement between a new owner and a lessee, a residential lease remains in effect if a residential property is transferred or sold. The bill defines "low-income housing project" consistent with federal law and eliminates the ability of a landlord of a low-income public housing project to make use of the summary eviction procedures in some cases. Additionally, the bill provides an eviction notice must be served by a sheriff, a constable, a licensed process server or the agent of an attorney licensed to practice in Nevada.

SENATOR PICKARD:

I would like to express my gratitude to my colleague from Senate District 13 who invited me to participate in some of the late discussions about this bill as related to the amendment. I continue to have concerns, particularly in light of the action we just took a few minutes ago. We are trying to make it easier for tenants, balance the playing field and address the bad actors in this area of law. Having represented many tenants who did not get a deposit back or who were not treated fairly, I support the idea of what we are trying to accomplish. We are, however, embarking on a path that will raise the costs of things like security deposits because the owners will have to absorb these costs. Costs will go up; they will now have to hire attorneys and agents to serve notices, particularly in large-scale properties, and security deposits and the length of time tenants remain in possession of the units will go up. This means landlords will not be getting their money so they will have to raise their rental rates in order to absorb the costs. The unintended consequences of this bill, particularly in conjunction with action taken earlier, will hurt the people we are trying to protect. I am voting "no" on this bill and urge my colleagues to do the same.

SENATOR SETTELMEYER:

I appreciate the great work my colleague from northern Nevada did in trying to remove portions of the bill that related to commercial real estate and other aspects of the bill, but I am concerned about the concept of going from five to seven judicial days. I appreciate my colleague from Senate District 20 pointing to the judicial calendar, which can be found online, to determine the meaning of a judicial day. This change could add up to a week rather than five days which I find problematic. This may put landlords to the point where they start an eviction process on the third day of a tenant not paying rent. The bill we passed earlier stated there was a three-day timeline, now we are saying it is a week. Most people in my area have three or four rentals and serve their own paperwork. This bill would require them to have someone else do the serving. This may reward the bad actors and tenants, making it more difficult to evict them, and hurt the good tenants. Landlords will increase the required credit scores for renting so fewer people will be able to access rentals; they will be more selective about who to rent to, and I find this problematic. There will be longer periods of time in which these homes and properties are unoccupied. Because of this, rents will have to be increased to make up the money. The eviction costs will go up so landlords will need to increase the required deposits, and because a property is not rented, grace period times will be decreased. There is a better way to address this, and hopefully, this bill can be amended in the other House to address these issues.

SENATOR RATTI:

I appreciate the remarks from my colleagues, and I would like to clarify a few things. These reforms to the eviction process are modest. Nevada has the quickest eviction process in the West. After rent is one day late, a landlord can give notice for a tenant to pay, move out or file an affidavit with the justice court within four-and-a-half days. If the tenant fails to comply, the landlord can give an order removing that tenant within 24 hours. By comparison, in Nevada a person has 30 days in which to make a car payment before a car is repossessed and 12 days in which to make a utility payment before utilities are shut off. When it comes to actually taking a roof from over an individual's head, ours is one of the fastest processes, and it does not give an individual the opportunity to cure, meaning pay their rent, and get back in the good graces of their landlord.

In this economy, where we have seen rents increasing by rates of 35 percent or up to 75 percent in some cases; we are seeing a dramatic increase in unscrupulous practices on behalf of the bad

players. We say we do not want to go after the bad actors and affect the good, but in this case, the effects on the good actors are modest. The actions of the bad actors are so terrible, we are pushing families into homelessness, and with vacancy rates of less than 5 percent, people have nowhere else to go. This is not a situation where we are providing the dignity and respect to tenants they deserve.

This bill adds two-and-a-half days to the timeline. It addresses a servicing problem that is the worst part of what is happening. Currently, some people are generating fake eviction notices and giving them to tenants to scare them out. This is happening across the State. We had testimony in Committee hearings to that effect. In some places, notices are being placed in parts of the housing unit where a tenant does not have access and would not be able to see the notice. In others, notices are being handed to an individual and ten minutes later they are evicted. This bill provides simple protections that give a few more days to a tenant to cure; it is still less than what one would get for a late car payment or utility bill.

This bill also makes assurances that the person doing the servicing is following the law. No one would have to hire an attorney. The simple way for someone to meet the requirements of this bill, who has even a modest number of rentals, is to get licensed as a server. For large properties, one or two employees could be identified and licensed as servers. For smaller landlords, the training would not be a significant burden, and once licensed, the landlord could serve notice personally. This bill does not require use of an attorney. The attorney's fees are in the bill in case a landlord has an attorney they choose to use to certify the service was done legally.

These reforms are modest but bring humanity and dignity to the tenants who are now being treated in ways that are not appropriate. This is a bill that balances the rights of property owners with the rights of tenants.

SENATOR PICKARD:

Whenever an independent process server is used, that service cannot be provided by a party to the litigation. This means a landlord could not be certified and then serve a tenant; this is not appropriate under current rules. My colleague is correct, Nevada has one of the fastest summary eviction processes, if not the fastest in the Country. However, it only takes one legal defense to terminate the summary process. It is easy in this State to put a stop to the summary process and have it then move to an unlawful detainer process. That requires a complaint, an answer and a hearing. This usually takes about 30 days. This means as quickly as this process can be started, it can be terminated. All it needs is one legal defense such as a habitability issue. It could also be a notice issue. There are already requirements for these notices to be available and posted and time given for the tenant to cure. This is the idea behind a three-day or five-day notice to pay or quit. Tenants are given the opportunity to cure. If, at the end of that time they reuse to follow the process, they are subject to an eviction order. This also takes several days to obtain. This is a specific summary process which is easy to defeat.

I agree with my colleague as to the impropriety of some of these actions and have seen and defended them, and in every case where I have defended them, I have been able to put a stop to the summary proceeding. If we want to drive at the core of the bad actions, we should be making the bad actors pay a price for their actions. We heard discussions about late fees being added on daily. Courts have the ability to refuse to order those fees or dismiss them if they are unreasonable because they have the ability to do what is right. If we were to penalize the bad actors, rather than make it harder for the good actors to do their work, that would be the best solution. This bill will drive up rental rates and service costs and delay the action. People have a choice to sign a contract. There are many instances where people cannot afford to get into certain places, and we should penalize the bad actors so we have the effect we want. This bill will harm the people we want to protect. I urge my colleagues to vote "no" on this bill.

SENATOR SPEARMAN:

My first word would be: "Huh"? I am not an attorney. I do not play one on TV, and I have never purported to be one. I have been a renter, and I have been a landlord. Most of the explanations just espoused by my colleague from Senate District 20 are something that I, living in Las Vegas, can wager most tenants have no idea of what that process looks like, none, zip, zero, zilch, none. Renters are workers and, as my colleague from Senate District 13 said, we have notices that are placed in inconspicuous places where they cannot be seen, and tenants are penalized because they do not see them. Most of what we do here during these 120 days is look at policies that address bad actors. This

bill is consistent with what we do. People who are good actors are already doing the right thing. I would like to err on the side having more dignity and humanity to the process. Having celebrated the High Holy Day Easter recently, and remembering the words of the person who was crucified and then resurrected, "What you have done to the least of these, you have done it to me."

SENATOR RATTI:

Summary eviction is a unique process done in Nevada and likely not done in the rest of the Country. When I first contemplated this bill and was hearing stories from struggling tenants, particularly those in northern Nevada, the temptation was to remove summary eviction all together. I felt, however, like this was too extreme so we looked at the existing process and how to give people more space to be able to find their next housing. After the summary eviction process was taken off the table, we still are among the fastest process in the West. Adding two days barely gets us to the middle of the pack. This does not take us to an extreme; it gets us in line with the states around us. The data is interesting. In places where there is more time for folks to make decisions and choices, there are far fewer evictions or need to go to court. What we do now, because we have so little time, is encourage those who can afford an attorney, or go to legal aid, to use the court option. If the front-end part of the process were a bit more generous, two-and-a-half days and meaningful notice, there would be far fewer that would get into the court system. That is the common sense, practical and the humane thing to do. I urge you to support Senate Bill No. 151.

Roll call on Senate Bill No. 151:

YEAS—13.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

Senate Bill No. 151 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 243.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 646.

SUMMARY—Revises provisions relating to prevailing wages. (BDR 28-768)

AN ACT relating to public construction; revising the procedure for determining the prevailing rate of wages; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that mechanics and workers employed on certain public construction projects be paid at least the wage prevailing in the county in which the project is located for the type of work that the mechanic or worker performs. (NRS 338.020) ~~[The prevailing rate of such wages for each county is determined by the Labor Commissioner pursuant to a procedure prescribed in existing statute and regulation. This procedure requires the Labor Commissioner to annually survey contractors who have performed work in a county and base his or her determination of the prevailing wage for each craft or type of work on the results of this survey. (NRS 338.030) Based on responses to this survey, existing regulations require the Labor Commissioner to determine the prevailing rate of wages paid to each class of workers who perform a craft or type of work to be the rate of wages paid to a class of workers~~

~~if the rate of wages is the same for the majority of the total hours worked by such workers in the locality on construction similar to the proposed construction. Existing regulations also prescribe the procedure for determining the prevailing wage for a craft or type of work where there is no such majority or if no similar construction has been performed within the region in the past year. (NAC 338.010)]~~ Existing law also prescribes the manner in which the Labor Commissioner must determine the prevailing wage for such a project. (NRS 338.030) Section 3 of this bill: (1) removes these specific requirements with which the Labor Commissioner must comply in determining the prevailing rate of wages; and (2) reduces the frequency by which the Labor Commissioner is required to survey contractors from annually to biennially. Because existing law authorizes the Labor Commissioner to adopt such regulations as necessary to enable him or her to carry out his or her duties, the Labor Commissioner may establish the manner of determining the prevailing rate of wages by regulation. (NRS 338.012)

Section 3 ~~[of this bill]~~ also changes the geographical area for which the prevailing rate of wages is determined from a county to a region. Section 1 of this bill establishes four such regions: (1) the Washoe Prevailing Wage Region; (2) the Northern Rural Prevailing Wage Region; (3) the Clark Prevailing Wage Region; and (4) the Southern Rural Prevailing Wage Region. Section 2 of this bill makes a conforming change. Thus, mechanics and workers employed on public construction projects on which prevailing wages are required to be paid must be paid at least the wage prevailing in the region in which the project is located for their craft or type of work.

~~[Section 2 also revises the procedure for determining the prevailing rate of wages for each region by: (1) reducing the frequency by which the Labor Commissioner is required to survey contractors from annually to biennially; and (2) codifying in statute certain requirements currently prescribed in regulation concerning this determination. Section 2 also requires the Labor Commissioner to include in his or her determination of the prevailing rate of wages any wage and benefit adjustments in the collective bargaining agreement for a class of workers who perform the class or type of work if the Labor Commissioner determines that the prevailing rate of wages for a class or type of workers who perform the craft or type of work is a wage which has been collectively bargained.]~~ Section 3 requires the Labor Commissioner to issue a determination of the prevailing rate of wages on October 1 of the year in which the survey was conducted and makes this rate effective for 2 years unless the rate is adjusted by the Labor Commissioner. Finally, section 3 requires the Labor Commissioner to adjust the prevailing rate of wages on October 1 of each odd-numbered year and reissue the rate if: (1) the collective bargaining agreement provides for such an adjustment; or (2) any change in the Consumer Price Index for All Urban Consumers, West Region (All Items) has occurred since October 1 of the previous year.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

For the purpose of determining the prevailing rate of wages pursuant to NRS 338.030, four prevailing wage regions are hereby established in this State as follows:

1. The Washoe Prevailing Wage Region consisting of Washoe County;

2. The Northern Rural Prevailing Wage Region consisting of Carson City and the counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Storey, Pershing and White Pine;

3. The Clark Prevailing Wage Region consisting of Clark County; and

4. The Southern Rural Prevailing Wage Region consisting of the counties of Esmeralda, Lincoln and Nye.

Sec. 2. NRS 338.020 is hereby amended to read as follows:

338.020 1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers. The hourly and daily rate of wages must:

(a) Not be less than the rate of such wages then prevailing in the ~~[county]~~ *region* in which the public work is located, which prevailing rate of wages must have been determined in the manner provided in NRS 338.030; and

(b) Be posted on the site of the public work in a place generally visible to the workers.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workers so employed applies and must be stated clearly to such mechanics and workers when employed.

3. Except as otherwise provided in subsection 4, a contractor or subcontractor shall pay to a mechanic or worker employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour the mechanic or worker works on the public work in excess of:

(a) Forty hours in any scheduled week of work by the mechanic or worker for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or

(b) Eight hours in any workday that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless by mutual agreement the mechanic or worker works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

4. The provisions of subsection 3 do not apply to a mechanic or worker who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one-half times the rate of wages set forth in the collective bargaining agreement for work in excess of:

(a) Forty hours in any scheduled week of work; or

(b) Eight hours in any workday unless the collective bargaining agreement provides that the mechanic or worker shall work a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

5. The prevailing wage and any wages paid for overtime pursuant to subsection 3 or 4 to each class of mechanics or workers must be in accordance with the jurisdictional classes recognized in the ~~[locality]~~ *region* where the work is performed.

6. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.

Sec. 3. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the ~~[county]~~ *region established pursuant to section 1 of this act* in which the public work is to be performed for each craft or type of work.

2. The prevailing wage in each ~~[county, including Carson City,]~~ *such region* must be ~~[established]~~ *determined* ~~[as follows:~~

~~(a) The]~~ *by the* Labor Commissioner *. To determine the prevailing wage in each region, the Labor Commissioner* shall, ~~[annually,]~~ *in each even-numbered year,* survey contractors who have performed work in the ~~[county.]~~ *region.*

~~[(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50 percent *a majority* of the total hours worked by each craft or type of work in that county *region* on construction similar to the proposed construction, that rate will be determined as the prevailing wage.~~

~~(c) Where *there is* no such rate can be determined, *majority*, the prevailing wage for a craft or type of work will be determined as the :~~

~~*(1) The rate of wages paid for the greater number of hours worked by the class of workers who perform the craft or type of work if that number constitutes 40 percent or more of the total number of hours worked by those workers; or*~~

~~*(2) The* average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type *a class* of work.~~

~~(d)]~~ *3.* The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to ~~[paragraphs (a), (b) and (c)]~~ *subsection 2* for:

(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and

(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed

by a school district or the Nevada System of Higher Education. ~~[*workers who perform the craft or type of work if the number of hours paid at the same rate is less than 40 percent of the total number of hours worked by those workers.*~~

~~*(d) If no similar construction has been performed within the region in the immediately preceding 2 years, the Labor Commissioner shall consider wage rates paid on the nearest similar project of construction in this State.*~~

~~*3. If the Labor Commissioner determines pursuant to subsection 2 that the prevailing rate of wages for a class of workers who perform the craft or type of work is a wage which has been collectively bargained, the Labor Commissioner shall include in his or her determination of that prevailing wage any wage and benefit adjustments in the collective bargaining agreement.*~~*]*

4. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection ~~[6]~~ *7* to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any ~~[county.]~~ *region.*

~~[4.]~~ *5.* The Labor Commissioner shall hold a hearing in the ~~[locality]~~ *region* in which the work is to be executed if the Labor Commissioner:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection ~~[3.]~~ *4.*

➥ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any ~~[county.]~~ *region.*

~~[5.]~~ *6.* Notice of the hearing must be advertised in a newspaper ~~[nearest to the locality of]~~ *in the region in which* the work *is to be executed* once a week for 2 weeks before the time of the hearing.

~~[6.]~~ *7.* At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the ~~[locality]~~ *region* or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~[7.]~~ *8.* The wages so determined must be ~~[filed]~~ *:*

(a) Issued by the Labor Commissioner *on October 1 of the year in which the survey was conducted and, except as otherwise provided in subsection 9, remain effective for 2 years after that date;* and ~~[must be]~~

(b) Made available *by the Labor Commissioner* to any public body which awards a contract for any public work.

~~[8.]~~ *9. On October 1 of each odd-numbered year, the Labor Commissioner shall:*

(a) Adjust the prevailing rate of wages:

(1) If the Labor Commissioner determines that the prevailing rate of wages for a class of workers who perform the craft or type of work is a wage which has been collectively bargained pursuant to subsection 3, in accordance with the signed collective bargaining agreement that is on file with the Labor

Commissioner, if the collective bargaining agreement provides for such an adjustment on or before October 1 of that odd-numbered year; or

(2) In accordance with the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the United States Department of Labor or, if that index ceases to be published by the United States Department of Labor, the published index that most closely resembles that index, as determined by the Labor Commissioner, if any change in that index has occurred since October 1 of the previous year; and

(b) Reissue the prevailing rate of wages for each class of workers who perform the craft or type of work, including any rates required to be adjusted pursuant to paragraph (a).

10. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 4. (Deleted by amendment.)

Sec. 5. The provisions of NRS 338.030, as amended by section 3 of this act, apply to any rate of prevailing wages determined by the Labor Commissioner pursuant to that section on or after July 1, 2019.

Sec. 6. The amendatory provisions of this act do not apply to any contract to which the provisions of NRS 338.020 to 338.090, inclusive, apply, that is awarded before July 1, 2019.

Sec. 7. This act becomes effective on July 1, 2019.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 646 to Senate Bill No. 243 clarifies prevailing wages are 90 percent of the rate pursuant to what it has been.

Amendment adopted.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 243 revises the procedure for determining the prevailing rate of wages by changing the geographical area for which the prevailing rate of wages is determined from a county to a region. The bill establishes four such regions: the Washoe Prevailing Wage Region; the Northern Rural Prevailing Wage Region; the Clark Prevailing Wage Region, and the Southern Rural Prevailing Wage Region.

The Labor Commissioner is required to survey contractors only in even-numbered years, instead of annually, to establish rates for prevailing wage. The Labor Commissioner is required to adjust the prevailing rate of wages on October 1 of each odd-numbered year and reissue the rate only if the collective-bargaining agreement provides for such an adjustment or any change in a certain Consumer Price Index has occurred since October 1 of the previous year.

Roll call on Senate Bill No. 243:

YEAS—21.

NAYS—None.

Senate Bill No. 243 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Cannizzaro moved that the Senate adjourn until Wednesday, April 24, 2019, at 11:00 a.m.

Motion carried.

Senate adjourned at 7:22 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate