THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), May 30, 2019

Senate called to order at 1:31 p.m.

President Marshall presiding.

Roll called.

All present except Senator Washington, who was excused.

Prayer by the Chaplain, Reverend Chad Adamik.

God of grace and mercy, we come to You, today, asking for Your guidance, wisdom and support as we begin this workday. Help those gathered here engage in meaningful discussion; allow this Body to grow closer as a group and nurture the bonds of community. Fill us with Your grace, O God, as those gathered will make decisions that affect all of the residents of this great State. Continue to remind us all which is decided and accomplished is for the purpose of serving Nevadans and for the service of humanity.

We ask these things in Your Name.

AMEN.

Pledge of Allegiance to the Flag.

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

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 111, 153, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Finance, to which was referred Senate Bill No. 528; has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 378, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Madam President:

Your Committee on Growth and Infrastructure, to which was referred Assembly Bill No. 338, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

YVANNA D. CANCELA, *Chair*

Madam President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 552, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Legislative Operations and Elections, to which was re-referred Assembly Bill No. 449, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OHRENSCHALL, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Cannizzaro, Spearman, Ratti, Woodhouse, Parks, Brooks, Cancela, Denis, Dondero Loop, Harris, Ohrenschall and Scheible (emergency request of Senate Majority Leader.):

Senate Joint Resolution No. 8—Proposing to amend the Nevada Constitution to guarantee equal rights.

WHEREAS, The Fourteenth Amendment to the United States Constitution prohibits any state from denying to any person within its jurisdiction the equal protection of the laws; and

WHEREAS, The Nevada Supreme Court has interpreted the requirement of Section 21 of Article 4 of the Nevada Constitution that "all laws shall be general and of uniform operation throughout the State" to be coextensive with the guarantees of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; and

WHEREAS, The generality of the language used in the Fourteenth Amendment to the United States Constitution and Section 21 of Article 4 of the Nevada Constitution has allowed the Judicial branches of the Federal and State governments to establish a hierarchy within the persons entitled to the protection of the laws; and

WHEREAS, The United States Supreme Court has recognized that each individual state may adopt its own constitution and provide its citizens more expansive individual liberties than those provided by the Federal Constitution; and

WHEREAS, The Legislature of this State wishes to strictly guarantee the equality of rights under law to certain persons within its jurisdiction; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 24, be added to Article 1 of the Nevada Constitution to read as follows:

Sec. 24. Equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin.

Senator Cannizzaro moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Cancela moved that Assembly Bill No. 338, just reported out of Committee, be re-referred to the Committee on Finance.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 553—AN ACT relating to state financial administration; authorizing expenditures by various officers, departments, boards, agencies, commissions and institutions of the State Government for the 2019-2021 biennium; authorizing the collection of certain amounts from the counties for the use of the services of the State Public Defender; and providing other matters properly relating thereto.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 84.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 84 establishes a State prekindergarten program and requires the Department of Education, to the extent that funding is available, to award grants to school districts, sponsors of charter schools and nonprofit organizations to support prekindergarten programs. The bill further prescribes the requirements of the program and the authorized uses of a grant and requires the State Board of Education to adopt regulations to carry out the grant program. Finally, Senate Bill No. 84 requires the Department to submit a biennial report to the Legislative Committee on Education concerning the effectiveness of the prekindergarten programs supported by the grants.

Roll call on Senate Bill No. 84:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 84 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 324.

Bill read third time.

Remarks by Senator Dondero Loop.

Senate Bill No. 324 renames the Teachers' Supplies Reimbursement Account to the Teachers' School Supplies Assistance Account. This bill authorizes money in the special revenue fund to be disbursed to teachers in additional ways other than reimbursement including direct deposit, check, purchasing card, credit card or debit card. Senate Bill No. 324 retains language that any money remaining in the special revenue fund at the end of the fiscal year reverts to the Teachers' School Supplies Assistance Account. The measure also authorizes the board of trustees or the governing body of a charter school to allow a teacher who has used the entire amount of his or her disbursement or reimbursement to request an additional allocation of money as long as the combined total amount does not exceed $250 per fiscal year.

The bill eliminates the requirement that a teacher who receives money from the Special Revenue Fund must submit receipts or any supplies purchased to the principal of the school. Senate Bill No. 324 requires a teacher who receives money to directly purchase school supplies to repay the Special Revenue Fund no later than the last day of the fiscal year in which the money was received any amount that was used to purchase something other than school supplies and any amount that exceeds the $250 maximum in any fiscal year. Lastly, Senate Bill No. 324 requires the board of trustees of each school district and the governing body of each charter school to develop a policy that establishes the manner in which they account for reimbursements or disbursements of the money from each form of payment authorized for use by the board of trustees or governing board. The policy may include, without limitation, a requirement to submit receipts for any purchase of supplies with the money received.

Roll call on Senate Bill No. 324:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 324 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 332.

Bill read third time.

Remarks by Senator Seevers Gansert.

Senate Bill No. 332 directs the Legislative Committee on Education to conduct an interim study concerning the provision of a safe and respectful learning environment that is free of bullying, cyber-bullying and discriminatory harassment to ensure that each student enrolled in an elementary, middle or high school, as well as in an institution of the Nevada System of Higher Education, is provided equal access to education.

Roll call on Senate Bill No. 332:

YEAS—19.

NAYS—Kieckhefer.

EXCUSED—Washington.

Senate Bill No. 332 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 458.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 458 appropriates $410,000 in Fiscal Year 2020 and $205,000 in Fiscal Year 2021 from the State General Fund to the Department of Education's Other State Education Programs Account for allocation to nonprofit organizations to provide for the creation and maintenance of programs that provide school gardens for Title 1 schools. Money allocated may be used to provide professional development, pay for any travel expenses associated with the attendance of a teacher at a training or conference relating to school gardens and pay for the cost of conferences regarding school gardens held in the State. The measure specifies that a qualifying, nonprofit organization must have a curriculum that includes a comprehensive science, technology, engineering and mathematics, or STEM, school garden program. Such a program must include, without limitation, a STEM curriculum for school gardens including hydroponic gardens for pupils in kindergarten through grade five that is grade appropriate. Senate Bill No. 458 specifies certain requirements for the provision of professional development including training teachers who provide special education to pupils with disabilities in STEM and in providing vocational training to create a career path in horticulture for pupils. Additionally, the bill specifies a nonprofit may provide professional development to train a group of or individual teachers how to establish and maintain school gardens to increase the time teachers allocate to teaching STEM. I urge your support.

Roll call on Senate Bill No. 458:

YEAS—15.

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

EXCUSED—Washington.

Senate Bill No. 458 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 505.

Bill read third time.

Remarks by Senator Ratti.

Senate Bill No. 505 makes an $8,184,670 General Fund appropriation to the Governor's Office of Finance for purposes of funding an adjustment to the Washoe County and Carson City school districts, which were affected by the calculation of the district of residence for students enrolled in online charter schools for the 2017-2019 Biennium. I really do urge and appreciate everyone's support.

Roll call on Senate Bill No. 505:
YEAS—19.
NAYS—None.
EXCUSED—Hardy, Washington—2.

Senate Bill No. 505 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 92.

Bill read third time.

Remarks by Senator Denis.

Assembly Bill No. 92 makes changes to the English Mastery Council. The bill extends the date on which the Council is to sunset from June 30, 2019, to June 30, 2022. It also expands the duties of the Council to making recommendations to the State Board of Education to improve the academic achievement and English proficiency of all students who have scored at or below the 25th percentile on English language arts' examinations. Finally, Assembly Bill No. 92 appropriates from the State General Fund to the Department of Education for the 2019-2021 Biennium $10,000 for travel expenses and transcription services for the Council.

Roll call on Assembly Bill No. 92:
YEAS—19.
NAYS—None.
EXCUSED—Hardy, Washington—2.

Assembly Bill No. 92 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 276.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 276 creates the Nevada State Teacher Recruitment and Retention Advisory Task Force to evaluate the challenges of recruiting and retaining teachers; makes recommendations to the Legislative Committee on Education to address the challenges in attracting and retaining teachers, and reports its findings and recommendations to the Legislature. Finally, the bill appropriates from the State General Fund to the Department of Education for the 2019-2021 Biennium $15,384 for per diem allowance and travel expenses for members of the Task Force.

Roll call on Assembly Bill No. 276:
YEAS—19.
NAYS—None.
EXCUSED—Hardy, Washington—2.

Assembly Bill No. 276 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 526.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 526 authorizes the Commission on Postsecondary Education to suspend the approval of a course for the training of veterans in certain circumstances and requires the Commission to disapprove a course in certain other circumstances. The Commission must notify the postsecondary institution if such a suspension occurs. The measure includes provisions for an appeal of the decision by the suspended institution. Finally, the bill increases the number of voting members on the Commission, from six to seven, and requires that one member of the Commission represent veterans.

Roll call on Assembly Bill No. 526:

YEAS—19.

NAYS—None.

EXCUSED—Hardy, Washington—2.

Assembly Bill No. 526 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 68, 77, 128, 319, 364, 456; Assembly Joint Resolution No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAT SPEARMAN, *Chair*

Madam President:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 234, 494, 498, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JULIA RATTI, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 528.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1014.

SUMMARY—Makes appropriations to the Lou Ruvo Center for Brain Health for research, clinical studies, operations and educational programs. (BDR S-1260)

AN ACT making appropriations to the Lou Ruvo Center for Brain Health for research, clinical studies, operations and educational programs; and providing other matters properly relating thereto.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Lou Ruvo Center for Brain Health the sum of $2,000,000 for research, clinical studies, operations and educational programs at the Center.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the

appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 1.5. 1. There is hereby appropriated from the State General Fund to the Lou Ruvo Center for Brain Health for operations and educational programs to restore funding previously received by the Center for this purpose from the University of Nevada, Reno, School of Medicine the following sums:

For the Fiscal Year 2019-2020..... $542,343

For the Fiscal Year 2020-2021..... $542,343

~~[3.]~~ 2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 1.7. Upon acceptance of the money appropriated by ~~[subsections]~~ sections 1 and ~~[2,]~~ 1.5 of this act, the Lou Ruvo Center for Brain Health agrees to:

~~[(a)]~~ 1. Prepare and transmit a report to the Interim Finance Committee on or before December 18, 2020, that describes each expenditure made from the money appropriated by ~~[subsections]~~ sections 1 and ~~[2]~~ 1.5 of this act from the date on which the money was received by the Lou Ruvo Center for Brain Health through December 1, 2020;

~~[(b)]~~ 2. Prepare and transmit a final report to the Interim Finance Committee on or before September 17, 2021, that describes each expenditure made from the money appropriated by ~~[subsections]~~ sections 1 and ~~[2]~~ 1.5 of this act from the date on which the money was received by the Lou Ruvo Center for Brain Health through June 30, 2021; and

~~[(c)]~~ 3. Upon request of the Legislative Commission, make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, of the Lou Ruvo Center for Brain Health, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money appropriated by ~~[subsections]~~ sections 1 and ~~[2.]~~ 1.5 of this act.

Sec. 2. ~~[1. Any remaining balance of the appropriation made by subsection 1 of section 1 of this act must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which~~

~~the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.~~

~~2. Any balance of the sums appropriated by subsection 2 of section 1 of this act remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2020, and September 17, 2021, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, respectively.]~~ (Deleted by amendment.)

Sec. 3. ~~[This]~~ 1. This section and sections 1 and 1.7 of this act ~~[becomes]~~ become effective upon passage and approval.

2. Section 1.5 of this act becomes effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1014 to Senate Bill No. 528 requires any remaining balance of the appropriations made by the bill to not be committed for expenditure after June 30, 2021; requires that any money remaining revert to the State General Fund, and also revises the effective date for the $2 million General Fund appropriation to the Lou Ruvo Center for Brain Health for the purposes of research, clinical studies, operations and educational programs at the Center from July 1, 2019, to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 552.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 1020.

SUMMARY—Revises provisions governing the administration of the legislative process. (BDR 17-1277)

AN ACT relating to the Legislative Department of the State Government; revising provisions governing the allowances for certain expenses incurred by a Legislator; authorizing the Legislative Commission to adopt regulations governing the methods of submitting certain reports to the Legislature and Legislative Counsel Bureau; revising provisions governing meetings of legislative studies and investigations; eliminating the duty of the Legislative Commission to adopt regulations relating to the collection of certain information relating to the offices of district attorneys and public defenders; revising the description of certain parcels of land reserved for the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law entitles a Legislator to receive an allowance for the payment of tolls and charges for telephone service incurred in the performance of official business during each regular and special Legislative Session. (NRS 218A.645, 218A.665) Sections 1 and 3 of this bill remove the expenses incurred by a Legislator for tolls and charges for land line telephone service from such an allowance and require these expenses to be paid from the Legislative Fund. Additionally, sections 1 and 2 of this bill eliminate the requirement in existing law of the consideration of the availability of state-owned automobiles in determining the allowance a Legislator is entitled to receive for expenses incurred for travel under certain circumstances. (NRS 218A.645, 218A.655)

Existing law requires the submission of reports to the Legislature or the Legislative Counsel Bureau to be in electronic format, if practicable. (NRS 218A.750) Section 4 of this bill authorizes the Legislative Commission to provide by regulation for additional requirements for the submission of such reports.

Under existing law, a legislative committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission is required to meet not earlier than January 1 of the even-numbered year and not later than June 30 of that year, unless otherwise ordered by the Legislative Commission. (NRS 218E.205) Section 5 of this bill changes the earliest date for such a committee or subcommittee to meet to November 1 of the odd-numbered year. Existing law also requires certain legislative committees created in existing law to meet not earlier than November 1 of each odd-numbered year. (NRS 218E.515, 218E.560, 218E.610, 218E.710, 218E.755, 218E.810, 439B.210, 459.0085) Sections 6-11, 13 and 14 of this bill change the earliest date for these legislative committees to meet to September 1 of each odd-numbered year.

Existing law requires the Legislative Commission to prescribe regulations for the collection of information relating to the operation of the offices of district attorneys and public defenders in this State. (NRS 218E.300, 218E.305) Section 15 of this bill eliminates this requirement and section 12 of this bill makes a conforming change.

Existing law reserves for the supervision and control of the Legislature certain parcels of land in Carson City, generally located in and around the Legislative Building. (NRS 331.135) Section 12.5 of this bill makes technical revisions to the description of one such parcel of land.

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

Section 1. NRS 218A.645 is hereby amended to read as follows:

218A.645 1. The per diem allowance , ~~[and the]~~ travel ~~[and telephone]~~ expenses *and expenses incurred in the performance of official business* of Legislators in attendance at any regular or special session, presession orientation conference of the Legislature or training session conducted

pursuant to NRS 218A.285 must be allowed in the manner set forth in this section.

2. For initial travel from the Legislator's home to Carson City, Nevada, to attend a regular or special session, a presession orientation conference of the Legislature or a training session conducted pursuant to NRS 218A.285, and for return travel from Carson City, Nevada, to the Legislator's home upon adjournment sine die of a regular or special session or termination of a presession orientation conference or a training session, each Legislator is entitled to receive:

(a) A per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for 1 day's travel to and 1 day's travel from the regular or special session, presession orientation conference or training session.

(b) Travel expenses.

3. In addition to the per diem allowance and travel expenses authorized by subsection 2, each Legislator is entitled to receive a supplemental allowance which must not exceed:

(a) A total of $10,000 during each regular session for:

(1) The Legislator's actual expenses in moving to and from Carson City for the regular session;

(2) Travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business;

(3) If the Legislator rents furniture for the Legislator's temporary residence rather than moving similar furniture from the Legislator's home, the cost of renting that furniture not to exceed the amount that it would have cost to move the furniture to and from the Legislator's home; and

(4) If:

(I) The Legislator's home is more than 50 miles from Carson City; and

(II) The Legislator maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for occupancy during a regular session,

➥ the cost of such additional housing, paid at the end of each month during the regular session, beginning the month of the first day of the regular session and ending the month of the adjournment sine die of the regular session, in an amount that is the fair market rent for a one bedroom unit in Carson City as published by the United States Department of Housing and Urban Development prorated for the number of days of the month that the Legislator actually maintained the temporary quarters in or near Carson City. For the purposes of this subparagraph, any day before the first day of the regular session or after the day of the adjournment sine die of the regular session may not be counted as a day for which the Legislator actually maintained such temporary quarters; and

(b) A total of $1,200 during each special session for travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business.

4. Each Legislator is entitled to receive a per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area:

(a) For each day that the Legislature is in a regular or special session, a presession orientation conference or a training session conducted pursuant to NRS 218A.285; and

(b) For each day that the Legislator attends a meeting of a standing committee of which the Legislator is a member when the Legislature has adjourned for more than 4 days.

5. Each Legislator who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a regular or special session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 14 days in each period in which:

(a) The Legislature has adjourned until a time certain; and

(b) The Legislator is not entitled to a per diem allowance pursuant to subsection 4.

6. In addition to the per diem allowance authorized by subsection 4 and the lodging allowance authorized by subsection 5, each Legislator who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a regular or special session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 17 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Legislator must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting.

7. Each Legislator is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 6 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Legislator must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting,

➥ if the Legislator is not entitled to the per diem allowance authorized by subsection 4 or the lodging allowances authorized by subsections 5 and 6.

8. Each Legislator is entitled to receive ~~[a telephone]~~ *an* allowance *for the payment of expenses incurred by the Legislator in the performance of official*

business, except expenses from tolls and charges for the use of a land line telephone service, of:

(a) Not more than $2,800 ~~[for the payment of tolls and charges incurred by the Legislator in the performance of official business]~~ during each regular session; and

(b) Not more than $300 during each special session.

➥ *Any expense incurred by a Legislator during each regular and special session from tolls and charges for the use of a land line telephone service must be paid from the Legislative Fund.*

9. An employee of the Legislature assigned to serve a standing committee is entitled to receive the travel expenses and per diem allowance provided for state officers and employees generally if the employee is required to attend a hearing of the committee outside Carson City.

10. Claims for per diem expense allowances authorized by subsection 4 and lodging allowances authorized by subsections 5, 6 and 7 must be paid once each week during a regular or special session and upon completion of a presession orientation conference or a training session conducted pursuant to NRS 218A.285.

11. A claim for travel expenses authorized by subsection 2 or 3 must not be paid unless the Legislator submits a signed statement affirming:

(a) The date of the travel; and

(b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

12. Travel expenses authorized by subsections 2 and 3 are limited to:

(a) If the travel is by private conveyance, a rate equal to the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax. If two or more Legislators travel in the same private conveyance, the Legislator who provided or arranged for providing the transportation is presumed entitled to reimbursement.

(b) If the travel is not by private conveyance, the actual amount expended.

➥ Transportation must be by the most economical means, considering total cost ~~[,]~~ *and* time spent in transit . ~~[and the availability of state-owned automobiles.]~~

Sec. 2. NRS 218A.655 is hereby amended to read as follows:

218A.655 1. Except as otherwise provided in NRS 218A.645, each Legislator is entitled to receive an allowance for travel in the transaction of legislative business authorized by specific statute or the Legislative Commission, whether within or outside of the municipality or other area in which the Legislator's principal office is located. Transportation must be by the most economical means, considering total cost ~~[,]~~ *and* time spent in transit . ~~[and the availability of state-owned automobiles.]~~ The allowance is:

(a) If the travel is by private conveyance, the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax.

(b) If the travel is not by private conveyance, the actual amount expended.

2. Claims for expenses made pursuant to this section must be paid from the Legislative Fund unless otherwise provided by specific statute. A claim for travel expenses must not be paid unless the Legislator submits a signed statement affirming:

(a) The date of travel; and

(b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

Sec. 3. NRS 218A.665 is hereby amended to read as follows:

218A.665 1. Each of the following officers of the Houses is entitled to an allowance of not more than $900 for each regular session and $64 for each special session for the payment of postage, ~~[telephone tolls and other]~~ communication charges *other than tolls and charges for the use of a land line telephone service, and other expenses* incurred by the officer in the performance of the officer's duties:

(a) The President and President Pro Tempore of the Senate.

(b) The Speaker and Speaker Pro Tempore of the Assembly.

(c) The Majority Floor Leader and Minority Floor Leader of each House.

(d) The chair of each standing committee of each House, except that any chair who would otherwise qualify for more than one allowance is entitled only to one allowance.

2. All allowances made pursuant to this section *and any expense incurred by an officer pursuant to this section during each regular and special session for tolls and charges for the use of a land line telephone service* must be paid from the Legislative Fund.

Sec. 4. NRS 218A.750 is hereby amended to read as follows:

218A.750 *1.* If a law or resolution requires or directs that a report be made to the Legislature, the Legislative Counsel Bureau, or any person or entity within the Legislature or the Legislative Counsel Bureau:

~~[1.]~~ *(a)* The person or entity shall, if practicable, submit the report in electronic format.

~~[2.]~~ *(b)* Submitting the report in electronic format satisfies the law or resolution.

2. In addition to the requirement set forth in subsection 1, the Legislative Commission may by regulation provide for additional requirements for the submission of such a report.

Sec. 5. NRS 218E.205 is hereby amended to read as follows:

218E.205 1. Between regular sessions, the Legislative Commission:

(a) Shall fix the work priority of all studies and investigations assigned to it by a statute or concurrent resolution or directed by an order of the Legislative Commission, within the limits of available time, money and staff.

(b) Shall not make studies or investigations directed by a resolution of only one House or studies or investigations proposed but not approved during the preceding regular session.

2. All requests for the drafting of legislative measures to be recommended as the result of a study or investigation must be made in accordance with NRS 218D.160.

3. Except as otherwise provided by NRS 218E.210, between regular sessions, a study or investigation may not be initiated or continued by the Fiscal Analysts, the Legislative Auditor, the Legislative Counsel or the Research Director and their staffs, except studies and investigations which have been specifically authorized by a statute, concurrent resolution or order of the Legislative Commission.

4. A study or investigation may not be carried over from one regular session to the next without additional authorization by a statute, concurrent resolution or order of the Legislative Commission, except audits in progress whose carryover has been approved by the Legislative Commission.

5. Except as otherwise provided by a specific statute, the staff of the Legislative Counsel Bureau shall not serve as primary administrative or professional staff for a committee established by a statute, concurrent resolution or order of the Legislative Commission to conduct a study or investigation, unless the chair of the committee is required by the statute, concurrent resolution or order of the Legislative Commission to be a Legislator.

6. The Legislative Commission shall review and approve the budget and work program and any changes to the budget or work program for each study or investigation conducted by the Legislative Commission or a committee or subcommittee established by the Legislative Commission.

7. A committee or subcommittee established to conduct a study or investigation assigned to the Legislative Commission by a statute or concurrent resolution or directed by an order of the Legislative Commission must, unless otherwise ordered by the Legislative Commission, meet not earlier than ~~[January]~~ *November* 1 of the ~~[even]~~ *odd*-numbered year and not later than June 30 of ~~[that]~~ *the following even-numbered* year.

Sec. 6. NRS 218E.515 is hereby amended to read as follows:

218E.515 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Research Director or the Research Director's designee shall act as the nonvoting recording Secretary.

3. The Committee shall prescribe rules for its own management and government.

4. Five members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

5. Except during a regular or special session, for each day or portion of a day during which members of the Committee who are Legislators attend a meeting of the Committee or are otherwise engaged in the business of the Committee, the members are entitled to receive:

(a) The compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) The per diem allowance provided for state officers and employees generally; and

(c) The travel expenses provided pursuant to NRS 218A.655.

6. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

7. The member of the Committee who represents a local political subdivision is entitled to receive the subsistence allowances and travel expenses provided by law for his or her position for each day of attendance at a meeting of the Committee and while engaged in the business of the Committee, to be paid by the local political subdivision.

Sec. 7. NRS 218E.560 is hereby amended to read as follows:

218E.560 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or the Director's designee shall act as the nonvoting recording Secretary.

3. The Committee shall adopt rules for its own management and government.

4. Except as otherwise provided in subsection 5, four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

5. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

6. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting or is otherwise engaged in the business of the Committee, the member is entitled to receive:

(a) The compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) The per diem allowance provided for state officers and employees generally; and

(c) The travel expenses provided pursuant to NRS 218A.655.

7. All such compensation, per diem allowances and travel expenses and any other expenses of the Committee must be paid from the Legislative Fund.

Sec. 8. NRS 218E.610 is hereby amended to read as follows:

218E.610 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.

3. Five members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

Sec. 9. NRS 218E.710 is hereby amended to read as follows:

218E.710 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

Sec. 10. NRS 218E.755 is hereby amended to read as follows:

218E.755 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or by a majority of the Committee.

2. The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

Sec. 11. NRS 218E.810 is hereby amended to read as follows:

218E.810 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.

3. Four members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.

4. Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:

(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

Sec. 12. NRS 180.080 is hereby amended to read as follows:

180.080 1. The State Public Defender shall submit:

(a) A report on or before December 1 of each year to the Governor and to each participating county containing a statement of:

(1) The number of cases that are pending in each participating county;

(2) The number of cases in each participating county that were closed in the previous fiscal year;

(3) The total number of criminal defendants represented in each participating county with separate categories specifying the crimes charged and whether the defendant was less than 18 years of age or an adult;

(4) The total number of working hours spent by the State Public Defender and the State Public Defender's staff on work for each participating county; and

(5) The amount and categories of the expenditures made by the State Public Defender's office.

(b) To each participating county, on or before December 1 of each even-numbered year, the total proposed budget of the State Public Defender for that county, including the projected number of cases and the projected cost of services attributed to the county for the next biennium.

~~[(c) Such reports to the Legislative Commission as the regulations of the Commission require.]~~

2. As used in this section, "participating county" means each county in which the office of public defender has not been created pursuant to NRS 260.010.

Sec. 12.5. NRS 331.135 is hereby amended to read as follows:

331.135 1. The Legislature reserves the supervision and control, both during and between legislative sessions, of:

(a) The entire Legislative Building, including its chambers, offices and other rooms, and its furnishings and equipment.

(b) A portion of the parcel of land bounded on the west by Carson Street, on the south by Fifth Street, on the east by *a portion of the abandoned* Fall ~~[Street,]~~ *and Plaza Streets,* and on the north by the sidewalk along the south fence of the capitol grounds, situated in a portion of the Capitol Complex, as shown on the Record of Survey Map No. 297, Official Records of Carson City, Nevada, File No. 3043, section 17, T. 15 N., R. 20 E., M.D.M., more particularly described as follows:

Beginning at the southwest corner of block 36, Sears, Thompson and Sears Division, as shown on that record of survey;

Thence N 89°52′32″ E, a distance of 443.93 feet;

Thence N 00°12′15″ E, a distance of 302.14 feet;

Thence N 44°47′45″ W, a distance of ~~[189.88]~~ *327.16* feet to the ~~[north side of an existing sidewalk;~~

~~Thence N 89°39′33″ W, along that sidewalk, a distance of 97.13 feet to the]~~ east side of an existing sidewalk;

Thence N 00°14′26″ E, along that sidewalk, a distance of ~~[270.00]~~ *173.16* feet, more or less, to the north line of a sidewalk;

Thence N 89°47′45″ W, along that sidewalk, a distance of 212.50 feet, to the east right-of-way line of Carson Street;

Thence S 00°13′08″ W, along that line, a distance of 709.40 feet, more or less, to the true point of beginning.

Containing ~~[5.572]~~ *5.68* acres, more or less.

(c) The entire parcel of land bounded on the north by Fifth Street, on the south by Sixth Street, on the east by Stewart Street and on the west by Plaza Street, also described as blocks 2 and 3, Pierson and Goodridge Addition; and that portion of Fall Street between Fifth Street and Sixth Street abandoned by Carson City on April 26, 1990, Meeting Agenda Item 9 M-89/90-10. Also the entire parcel of land bounded on the north by the south boundary line of block 2, Pierson and Goodridge Addition, on the south by Seventh Street, on the east by Stewart Street and on the west by Fall Street, and further described as block 7, Pierson and Goodridge Addition.

(d) The entire parcel of land bounded on the north by Sixth Street, on the south by Seventh Street, on the east by Fall Street, and on the west by Plaza Street, also described as block 6, Pierson and Goodridge Addition.

(e) The entire parcel of land bounded on the north by Fourth Street, on the west by Stewart Street, on the south by Fifth Street, and on the east by the abandoned right-of-way of Valley Street, also described as block 39 of Sears, Thompson and Sears Division of Carson City; and the west 30.00 feet of the abandoned right-of-way of Valley Street abutting block 39 of Sears, Thompson and Sears Division. Excepting therefrom that portion of Stewart and Fifth Streets deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.

(f) The entire parcel of land bounded on the north by Third Street, on the west by Stewart Street, on the south by Fourth Street, and on the east by Valley Street, also described as block 22 of Sears, Thompson and Sears Division of Carson City; and the land occupied by the state printing warehouse in block 21 of Sears, Thompson and Sears Division of Carson City; and the abandoned right-of-way of Fourth Street between block 22 of Sears, Thompson and Sears Division and block 39 of Sears, Thompson and Sears Division of Carson City. Excepting therefrom that portion of Stewart Street deeded to the State of Nevada through its Department of Transportation as recorded in book 283, page 208, of Deeds, Carson City, Nevada.

(g) Any other property acquired for the use of the Legislature or its staff.

➥ Title to the property described in this subsection must be held in the name of the Legislature of the State of Nevada.

2. The Director of the Legislative Counsel Bureau:

(a) Shall provide an individual office for each Legislator whose position as an officer or as a chair of a committee does not otherwise entitle the Legislator to occupy an assigned office.

(b) May assign the use of space in the Legislative Building or other legislative facilities or on the legislative grounds in such a manner as the Legislative Commission prescribes.

3. The Director of the Legislative Counsel Bureau shall cause the Legislative Building, chambers and grounds and other legislative facilities to be kept in good repair, clean, orderly and presentable as befits public property and the dignity of the Legislature. For this purpose he or she may, in addition to the general power of the Director to employ or contract for the services of personnel, contract with any private enterprise or governmental agency for the provision of appropriate services.

Sec. 13. NRS 439B.210 is hereby amended to read as follows:

439B.210 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee. The Director of the Legislative Counsel Bureau or a person designated by the Director shall act as the nonvoting recording Secretary. The Committee shall prescribe regulations for its own management and government. Four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

2. Except during a regular or special session of the Legislature, members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which the member attends a meeting of the Committee or is otherwise engaged in the business of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218A.655.

3. The salaries and expenses of the Committee must be paid from the Legislative Fund.

Sec. 14. NRS 459.0085 is hereby amended to read as follows:

459.0085 1. There is hereby created a Committee on High-Level Radioactive Waste. It is a committee of the Legislature composed of:

(a) Four members of the Senate, appointed by the Majority Leader of the Senate.

(b) Four members of the Assembly, appointed by the Speaker.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program. The Legislative Commission shall select a Chair and a Vice Chair from the members of the Committee.

3. Except as otherwise ordered by the Legislative Commission, the Committee shall meet not earlier than ~~[November]~~ *September* 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the call of the Chair to study and evaluate:

(a) Information and policies regarding the location in this State of a facility for the disposal of high-level radioactive waste;

(b) Any potentially adverse effects from the construction and operation of a facility and the ways of mitigating those effects; and

(c) Any other policies relating to the disposal of high-level radioactive waste.

4. The Committee may conduct investigations and hold hearings in connection with its functions and duties and exercise any of the investigative powers set forth in NRS 218E.105 to 218E.140, inclusive.

5. The Committee shall report the results of its studies and evaluations to the Legislative Commission and the Interim Finance Committee at such times as the Legislative Commission or the Interim Finance Committee may require.

6. The Committee may recommend any appropriate legislation to the Legislature and the Legislative Commission.

7. The Director of the Legislative Counsel Bureau shall provide a Secretary for the Committee on High-Level Radioactive Waste.

8. Except during a regular or special session of the Legislature, each member of the Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which the member attends a Committee meeting or is otherwise engaged in the work of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218A.655. Per diem allowances, salary and travel expenses of members of the Committee must be paid from the Legislative Fund.

Sec. 15. NRS 218E.300 and 218E.305 are hereby repealed.

Sec. 16. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

218E.300 Legislative findings. The Legislature finds that:

1. The discharge of its duties to provide for the prosecution of public offenses and the defense of indigent persons charged with public offenses requires the collection of statistical information upon the operation of the several district attorneys' and public defenders' offices which are reasonably accurate and are comparable from county to county.

2. There exists no agency outside the Legislative Department which is appropriate for the collection of such information.

218E.305 Compilation of records and reports; limitations on use; disclosure of information.

1. The Legislative Commission shall prescribe by regulation:

(a) The kinds of records to be kept by each district attorney and public defender for the information of the Legislature, and may classify such requirements by population of the county if appropriate.

(b) The reports to be made of the contents of such records, including the period to be covered and the date of submission of each report.

2. Each report prescribed pursuant to this section is for the use of the Legislature, the Legislative Commission and the staff of the Legislative Counsel Bureau only. Statistical summaries may be published, but information upon the qualifications or salary of any particular person shall not be disclosed outside the Legislative Department.

Senator Ohrenschall moved the adoption of the amendment.

Remarks by Senator Ohrenschall.

Amendment No. 1020 to Senate Bill No. 552 makes a technical correction to the statutory description of parcels of land at the Capitol Complex controlled by the Nevada Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 449.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 1019.

SUMMARY—Directs the Legislative Committee on Child Welfare and Juvenile Justice to conduct a study relating to juvenile detention in this State. (BDR S-450)

AN ACT relating to child welfare; directing the Legislative Committee on Child Welfare and Juvenile Justice to conduct an interim study concerning juvenile detention in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Legislative Committee on Child Welfare and Juvenile Justice and directs the Committee to evaluate and review various issues relating to child welfare and juvenile justice in this State. (NRS 218E.700-218E.720) Section 1 of this bill requires the Committee to conduct a study during the 2019-2020 interim concerning juvenile detention in this State. The study must include: (1) consideration of the implementation of a regional approach to housing juvenile offenders in this State; (2) a review of the adequacy of the current capacity of institutions and facilities in this State to house juvenile offenders; (3) a review of the current level of family and community engagement afforded to juveniles in the juvenile justice system and opportunities for an increase in such family and community engagement; (4) an analysis of current programming relating to the education, health and wellness of juvenile offenders in this State; (5) a review of the programs and services in other states where juvenile offenders who are tried as adults are housed with juvenile offenders within the juvenile justice system; (6) an analysis of sentencing practices for juvenile offenders in other states and an identification of best practices sentencing standards for juvenile offenders; and (7) a review of the facilities, services and programs available in this State for children who are determined to be incompetent by the juvenile court. Section 2 of this bill requires the Nevada Department of Corrections and each local and

state institution or facility for the detention of juvenile offenders to present certain data, trends and other information to the Committee to assist the Committee in conducting the study required by section 1 of this bill.

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

Section 1. 1. The Legislative Committee on Child Welfare and Juvenile Justice shall conduct a study during the 2019-2020 interim concerning juvenile detention in this State. The study must include, without limitation:

(a) Consideration of the implementation of a regional approach to the housing of juvenile offenders in this State, through which the Nevada Department of Corrections retains jurisdiction over juvenile offenders who are housed locally in other local or state institutions or facilities for the detention of juvenile offenders;

(b) A review of the adequacy of the current capacity of institutions and facilities in this State to house juvenile offenders;

(c) A review of the current level of family and community engagement afforded to juveniles in the juvenile justice system and the feasibility of programs to increase the level of family and community engagement received by juveniles in the juvenile justice system;

(d) An analysis of the current offerings of educational, health and wellness programming for juvenile offenders in institutions and facilities in this State;

(e) A review of the programs and services in other states where juvenile offenders who are tried as adults are housed with juvenile offenders within the juvenile justice system;

(f) An analysis of sentencing practices for juvenile offenders in other states and an identification of best practices sentencing standards for juvenile offenders; and

(g) A review of the facilities, services and programs available in this State for children who are determined to be incompetent by the juvenile court pursuant to NRS 62D.140 to 62D.190, inclusive.

2. In conducting the study, the Legislative Committee on Child Welfare and Juvenile Justice shall consult with and solicit input from persons and organizations with expertise in the issues concerning the detention of juvenile offenders, including, without limitation, local, state and national experts.

3. The Legislative Committee on Child Welfare and Juvenile Justice shall include its findings and any recommendations for legislation relating to the study conducted pursuant to subsection 1 in its report submitted to the Director of the Legislative Counsel Bureau pursuant to subsection 2 of NRS 218E.720.

Sec. 2. To assist the Legislative Committee on Child Welfare and Juvenile Justice in conducting the study pursuant to section 1 of this act, the Nevada Department of Corrections and each local and state institution or facility for the detention of juvenile offenders shall present to the Committee data, trends and other information relating to the institution or facility, including, without limitation:

1. The operating budget of the institution or facility and money available for programming and services at the institution or facility;

2. The average daily population, average length of stay and the highest degree of offense for which a juvenile is held at the institution or facility;

3. The age, capacity and condition of the institution or facility;

4. Current staffing ratios and any staffing shortages at the institution or facility;

5. The educational, vocational and recreational programs offered at the institution or facility;

6. The number of juveniles held at the institution or facility, reported by age, race and ethnicity, gender, degree of offense committed, distance from home and if it can be reported, the length of sentence;

7. Data concerning risk and needs assessments, special education needs, and mental health diagnoses of the juvenile offenders at the institution or facility; ~~[and]~~

8. Data concerning the use of physical force to restrain juveniles in custody at the institution or facility, as well as data concerning physical and sexual assaults that have occurred at the institution or facility; and

9. The estimated costs that would be incurred by the institution or facility to transition the juvenile offenders to an integrated program.

Sec. 3. This act becomes effective on July 1, 2019.

Senator Ohrenschall moved the adoption of the amendment.

Remarks by Senator Ohrenschall.

The amendment adds one more category of data to be provided to the Interim Legislative Committee of Child Welfare and Juvenile Justice to the enumerated lists in the bill.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 111.

Bill read third time.

Remarks by Senators Parks and Kieckhefer.

SENATOR PARKS:

Senate Bill No. 111 revises existing law to provide that a budgeted, ending-fund balance of not more than 16.67 percent, instead of 25 percent of the total budgeted expenditures, less capital outlay, is not subject to negotiation and must not be considered by a fact finder or arbitrator in determining local government employer's ability to pay compensation and monetary benefits. Additionally, Senate Bill No. 111 provides that any money appropriated by the State to carry out increases in salary or benefits is subject to negotiation and must be considered by a fact finder or arbitrator in determining a school district's ability to pay compensation or monetary benefits.

SENATOR KIECKHEFER:

I rise in opposition to Senate Bill No. 111. The second part of the bill that the Chair of Government Affairs discussed in describing the bill relates to the two-percent roll-up cost we included in the Distributed School Account for school districts on a biannual basis. This provision mandates the appropriation be carved out for the purpose of collective bargaining; however, there is no guarantee in our funding formula, as it exists, that this amount will reach the school districts. There is nothing outlined to ensure each individual district will receive two percent; some receive

more and some receive less. Carving out this specific percentage on an appropriated basis, county by county, district by district, does not work for the purpose of ensuring that money is available to provide this 2-percent increase at a district level. For this reason, I am opposed to this bill.

Roll call on Senate Bill No. 111:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer— 7.

EXCUSED—Hardy, Washington—2.

Senate Bill No. 111 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 153.

Bill read third time.

Remarks by Senator Parks.

Senate Bill No. 153 makes various changes to existing law pertaining to collective bargaining including eliminating the prohibition that a local government employer, with limited exceptions, is not to increase any compensation or monetary benefits paid to, or on behalf of, employees in the affected bargaining unit upon the end of the term stated in a collective bargaining agreement and until the successor agreement becomes effective. It revises provisions as to the position classifications in a school district that are excluded from engaging in collective bargaining with their employer; revises provisions governing the employment and assignment of school principals; revises provisions relating to local government employers authorizing leave to an employee for time spent by the employee in performing duties or providing services for an employee organization; revises the negotiation process by reducing the number of negotiation sessions that must occur, and finally, the timeframe before issues can be submitted to an arbitrator for arbitration.

Roll call on Senate Bill No. 153:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer— 7.

EXCUSED—Hardy, Washington—2.

Senate Bill No. 153 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 378.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1016.

SUMMARY—Revises provisions relating to ~~[the pricing of]~~ prescription drugs. (BDR ~~[40-574)]~~ 18-574)

AN ACT relating to prescription drugs; ~~[establishing the Prescription Drug Affordability Board and the Prescription Drug Affordability Stakeholder Council; imposing certain requirements to prevent conflicts of interest involving a member of the Board; authorizing the Board to employ certain persons; authorizing the Board to review the prices of certain prescription drugs; providing for the confidentiality of certain information obtained by the~~

~~Board; authorizing the Board to prescribe an upper payment limit for the purchase by a governmental entity of a prescription drug that meets certain requirements after such a review; authorizing written appeals to the Board; requiring the Board to submit an annual report to the Legislature;]~~ revising provisions concerning coverage of prescription drugs under Medicaid and the Children's Health Insurance Program; revising provisions governing restrictions imposed on the list of preferred prescription drugs to be used for the Medicaid program; revising the criteria for selecting prescription drugs for inclusion on the list; replacing the Pharmacy and Therapeutics Committee with the Silver State Scripts Board; authorizing certain public and nonprofit insurers to use the preferred prescription drug list for Medicaid as their formulary; revising provisions governing the duties of pharmacy benefit managers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires a manufacturer of prescription drugs to report certain information relating to the prices of drugs determined by the Department of Health and Human Services to be essential for treating diabetes in this State. (NRS 439B.635-439B.645) Existing law requires the Department to annually analyze that information and compile a report concerning the price of those drugs. (NRS 439B.650) Section 12 of this bill establishes the Prescription Drug Affordability Board and provides for the appointment of regular and alternate members of the Board. Section 12: (1) requires each such member to have expertise in the economics of health care or the practice of clinical medicine; and (2) prohibits a member of the board from holding certain positions with a manufacturer, pharmacy benefit manager, health carrier or wholesaler or a trade association of such entities. Section 13 of this bill prescribes requirements governing the procedure of the Board. Section 13 additionally requires a member of the Board to recuse himself or herself from certain decisions and prohibits a member of the Board from accepting certain financial benefits, gifts or donations. Sections 12 and 13 require the disclosure and publication of certain information concerning a conflict of interest involving a member of the Board. Section 14 of this bill provides for the appointment of an Executive Director, a General Counsel and other employees of the Board. Section 13 prohibits an employee of the Board from accepting certain gifts and donations. Section 15 of this bill establishes the Prescription Drug Affordability Stakeholder Council and prescribes the qualifications of the members of the Council.~~

~~Section 16 of this bill establishes the Prescription Drug Affordability Account to pay for the expenses of the Board and the Council.~~

~~Section 18 of this bill requires the Board to identify prescription drugs that meet certain criteria indicating that the price of the prescription drug may be creating significant challenges for insurers and patients in this State. Section 18 requires the Board, in consultation with the Council, to determine whether to conduct a review to determine whether the price of a prescription drug identified by the Board as meeting those criteria is creating significant~~

~~challenges for insurers and patients in this State. Section 19 of this bill prescribes the criteria the Board must consider when conducting such a review. Section 20 of this bill authorizes the Board to: (1) use certain information concerning the price of a prescription drug when conducting such a review; and (2) take certain measures to acquire such information. Sections 13, 20, 27 and 28 of this bill provide for the confidentiality of proprietary information considered by the Board. Section 24 of this bill requires the Department to provide to the Board any information concerning the price of essential diabetes drugs and certain other information upon request.~~

~~Beginning on January 1, 2022, section 21 of this bill authorizes the Board to prescribe an upper payment limit for all purchases by governmental entities of a prescription drug for which the Board determines that the price of the drug is creating significant challenges for insurers and patients in this State. Section 26 of this bill exempts such upper payment limits from the requirements applicable to regulations of state agencies generally. Sections 29.6, 31.5 and 35.5 of this bill prohibit Medicaid, the Public Employees' Benefits Program and insurance plans for local government employees from paying an amount for a prescription drug that exceeds the prescribed upper payment limit.~~

~~Section 22 of this bill authorizes a person aggrieved by a decision of the Board to submit a written appeal to the Board. Section 23 of this bill: (1) authorizes the Board to adopt regulations and enter into contracts; and (2) requires the Board to submit to the Legislature an annual report concerning trends in prescription drug pricing and the reviews conducted by the Board. Sections 38.3-38.9 of this bill require the Board to study certain issues relating to the pricing of prescription drugs.]~~

Existing law requires the Department of Health and Human Services to administer the Medicaid program. (NRS 422.270) Section 31.15 of this bill requires any contract between the Department ~~[of Health and Human Services]~~ and a pharmacy benefit manager or health maintenance organization to provide services related to prescription drug coverage under Medicaid or the Children's Health Insurance Program to require the pharmacy benefit manager or health maintenance organization, as applicable, to provide to the Department any information concerning such services provided pursuant to the contract. Section 31.15 additionally requires any health maintenance organization that enters into such a contract with the Department to provide all rebates received through the purchase of prescription drugs pursuant to the contract to the Department, except for an administrative fee. If the Department does not enter into such a contract, section 31.15 also requires the Department to directly manage and coordinate such services. ~~[Section 31.25 of this bill prohibits the Department from contracting with a managed care organization for any services related to coverage of prescription drugs for recipients of Medicaid.]~~ Section 31.2 of this bill provides for an annual audit of any contract between the Department and a pharmacy benefit manager or health maintenance organization entered into pursuant to section 31.15.

Existing law requires the Department to develop ~~[a]~~ : (1) a list of preferred prescription drugs to be used for the Medicaid program ~~[.]~~ ; and (2) a list of preferred prescription drugs on the list of preferred prescription drugs to be used for the Medicaid program that are not subject to certain restrictions. (NRS 422.4025) Section 31.4 of this bill requires the Children's Health Insurance Program to use the list of preferred prescription drugs. Sections 28.5, 29.3, 31.4 and 33 of this bill authorize other public and nonprofit insurance plans to use the list of preferred prescription drugs as the formulary for such plans. Section 31.4 also requires the Department to negotiate and enter into agreements to purchase prescription drugs included on the list of preferred prescription drugs on behalf of those health benefit plans or enter into a contract with ~~[an insurer or]~~ a pharmacy benefit manager or health maintenance organization, as appropriate, to negotiate and enter into such agreements. Section 31.4 of this bill removes certain categories of prescription drugs from the list of preferred prescription drugs to be used for the Medicaid program that are not subject to certain restrictions.

Existing law requires the Director of the Department to create a Pharmacy and Therapeutics Committee within the Department, consisting of members appointed by the Governor based on recommendations of the Director. (NRS 422.4035) Existing law requires the Committee to identify: (1) prescription drugs for inclusion in the list of preferred prescription drugs for the Medicaid program; and (2) prescription drugs on that list which should be excluded from any restrictions imposed by the Medicaid program. (NRS 422.405) Sections 31.55-31.8 of this bill replace the Committee with the Silver State Scripts Board. Section 31.55 requires the Director to appoint the members of the Board, who must have the same qualifications as the members of the Committee. Section ~~[8]~~ 31.8 of this bill requires the Board to: (1) identify prescription drugs for inclusion in the formulary developed for use by publicly funded and nonprofit health plans; and (2) assume the other duties of the Committee.

Existing law requires the Committee to make its decisions based on evidence of clinical efficacy and safety without consideration of cost. (NRS 422.405) Section 31.8 of this bill authorizes the Board to consider cost if there is no significant difference in the clinical efficacy, safety and patient outcomes of two or more drugs. Sections 28 and 31.8 of this bill authorize the Board to close a portion of a meeting to the public in order to consider the cost of prescription drugs. Sections 25, 29.2, 31-31.1, 31.3, 31.35, 31.45 and 31.9 of this bill make conforming changes.

Under existing law, a pharmacy benefit manager has a fiduciary duty to a third party with which the pharmacy benefit manager has entered into a contract to manage the pharmacy benefits plan of the third party. (NRS 683A.178) Section 32.5 of this bill removes this fiduciary duty and instead imposes on a pharmacy benefit manager an obligation of good faith and fair dealing toward a third party or pharmacy when performing contractual

duties. Section 32.5 also provides that any contractual provision that limits or waives that obligation is void and unenforceable.

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

Section 1. ~~[Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~[*As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11.5, inclusive, of this act have the meanings ascribed to them in those sections.*]~~ (Deleted by amendment.)

Sec. 3. ~~[*"Board" means the Prescription Drug Affordability Board established by section 12 of this act.*]~~ (Deleted by amendment.)

Sec. 4. ~~[*"Brand name prescription drug" means a prescription drug that is produced or distributed in accordance with an original new drug application approved pursuant to 21 U.S.C. § 355(c). The term does not include an authorized generic drug, as defined in 42 C.F.R. § 447.502.*]~~ (Deleted by amendment.)

Sec. 5. ~~[*"Council" means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.*]~~ (Deleted by amendment.)

Sec. 6. ~~[*"Generic prescription drug" means:*~~

~~*1. A prescription drug that is marketed or distributed in accordance with an abbreviated new drug application that has been approved pursuant to 21 U.S.C. § 355(j);*~~

~~*2. An authorized generic drug, as defined in 42 C.F.R. § 447.502; and*~~

~~*3. A prescription drug that entered the market before January 1, 1962, and was not originally marketed under a new drug application.*]~~ (Deleted by amendment.)

Sec. 7. ~~[*"Health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.*]~~ (Deleted by amendment.)

Sec. 8. ~~[*"Manufacturer" has the meaning ascribed to it in NRS 639.009.*]~~ (Deleted by amendment.)

Sec. 9. ~~[*"Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.*]~~ (Deleted by amendment.)

Sec. 10. ~~[*"Upper payment limit" means the maximum amount that the State or an agency or political subdivision thereof may pay for a dose of a prescription drug, as prescribed by the Board pursuant to section 21 of this act.*]~~ (Deleted by amendment.)

Sec. 11. ~~[*"Wholesale acquisition cost" has the meaning ascribed to it in NRS 439B.620.*]~~ (Deleted by amendment.)

Sec. 11.5. ~~[*"Wholesaler" has the meaning ascribed to it in NRS 639.016.*]~~ (Deleted by amendment.)

Sec. 12. ~~[*1. The Prescription Drug Affordability Board is hereby established. The Board consists of the following regular members:*~~

~~*(a) One member appointed by the Governor;*~~

~~*(b) One member appointed by the Majority Leader of the Senate;*~~

~~*(c) One member appointed by the Speaker of the Assembly;*~~

~~*(d) One member appointed by the Attorney General; and*~~

~~*(e) One member jointly appointed by the Majority Leader of the Senate and the Speaker of the Assembly. The member appointed pursuant to this paragraph shall serve as the Chair of the Board.*~~

~~*2. In addition to the regular members appointed to the Board pursuant to subsection 1:*~~

~~*(a) The Governor shall appoint one alternate member;*~~

~~*(b) The Majority Leader of the Senate shall appoint one alternate member; and*~~

~~*(c) The Speaker of the Assembly shall appoint one alternate member.*~~

~~*3. A regular member of the Board appointed pursuant to subsection 1 or an alternate member of the Board appointed pursuant to subsection 2:*~~

~~*(a) Must have expertise in the economics of health care or the practice of clinical medicine; and*~~

~~*(b) Must not be an employee, officer, member of the executive board or consultant of a manufacturer, a pharmacy benefit manager, a health carrier or a wholesaler or a trade association for any such entity.*~~

~~*4. Before being appointed as a regular or alternate member of the Board, a person shall disclose to the authority considering the appointment any potential conflict of interest, including, without limitation, a financial interest or personal association, that may create bias or the appearance of bias in matters related to the duties of the Board. An appointing authority shall disclose to the Chair of the Board any conflict of interest reported to him or her not later than 5 days after the identification of the conflict of interest. The Board shall post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, the type and significance of the conflict of interest and the name of the potential member involved.*~~

~~*5. In appointing the regular and alternate members of the Board described in subsections 1 and 2, the appointing authorities shall coordinate the appointments when practicable so that the regular and alternate members of the Board reflect the ethnic and geographic diversity of this State.*~~

~~*6. After the initial terms, each regular and alternate member of the Board serves for a term of 4 years. Each member of the Board continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments.*~~

~~*Any vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*~~

~~*— 7. Each regular or alternate member of the Board who is not an officer or employee of this State or a political subdivision of this State is entitled to receive a salary of $80 per day while engaged in the business of the Board.*~~

~~*— 8. While engaged in the business of the Board, each regular and alternate member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*~~

~~*— 9. A majority of the members of the Board constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Board.*~~

~~*— 10. A regular or alternate member of the Board who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Board and perform any work necessary to carry out the duties of the Board in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Board to:*~~

~~*— (a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Board; or*~~

~~*— (b) Take annual leave or compensatory time for the absence.]*~~ (Deleted by amendment.)

Sec. 13. ~~*[1. Except as otherwise provided in this subsection, the Board shall meet at the call of the Chair of the Board or a majority of its regular members and not less than once every 6 weeks. The Board may cancel or postpone a meeting for any reason.*~~

~~*— 2. The Board may close any portion of a meeting during which it considers trade secrets or other confidential or proprietary information concerning a prescription drug. Any portion of a meeting that is closed pursuant to this subsection is not subject to the provisions of chapter 241 of NRS. The Board shall not vote on any matter during the closed portion of a meeting.*~~

~~*— 3. If any regular member of the Board informs the Chair that the member will be unable to attend a scheduled meeting of the Board, the Chair must select an alternate member to replace the regular member at that meeting only, with all the duties, rights and privileges of the replaced member.*~~

~~*— 4. A regular or alternate member of the Board shall recuse himself or herself from a decision of the Board if the member or a member of his or her immediate family may receive a direct financial benefit, including, without limitation, honoraria, fees, stock or an increase in the value of an investment, deriving from the decision or any action taken pursuant to the decision.*~~

~~*— 5. A regular or alternate member of the Board shall not accept from a manufacturer, pharmacy benefit manager, health carrier, wholesaler or other person or entity who manufactures or distributes products or services related to prescription drugs or a person who owns or invests in such a person or*~~

~~*entity financial benefits that, in aggregate, exceed $5,000 in any calendar year.*~~

~~*6. A regular or alternate member, independent contractor or employee of the Board shall not accept any gift or donation of services or property that creates a potential conflict of interest or has the appearance of creating bias concerning the work of the Board.*~~

~~*7. A regular or alternate member of the Board shall disclose to the Chair of the Board any conflict of interest that affects the member before the meeting of the Board immediately following the identification of the conflict of interest or not later than 5 days after the identification of the conflict of interest, whichever is earlier. The Chair may recuse a member who discloses a conflict of interest from any decision of the Board to which the conflict of interest is relevant. If a member who discloses a conflict of interest is not recused, the Board must post on an Internet website maintained by the Board notification of the conflict of interest, including, without limitation, a description of the type and significance of the conflict of interest and the name of the member involved.]*~~ (Deleted by amendment.)

Sec. 14. ~~*[1. Upon approval by a majority of the members of the Board, the Board shall appoint an Executive Director, General Counsel and such other employees as the Board deems necessary.*~~

~~*2. The Executive Director and General Counsel are in the unclassified service of the State and serve at the pleasure of the Board. Any other employees of the Board are in the classified service of the State.*~~

~~*3. The Board shall establish the qualifications, powers and duties of the Executive Director and General Counsel.]*~~ (Deleted by amendment.)

Sec. 15. ~~*[1. The Prescription Drug Affordability Stakeholder Council is hereby established.*~~

~~*2. The Speaker of the Assembly shall appoint to the Council:*~~

~~*(a) One member who is a representative of a statewide organization that advocates for consumers of health care;*~~

~~*(b) One member who is a representative of a statewide organization that advocates for senior citizens;*~~

~~*(c) One member who is a representative of a statewide organization that advocates for members of minority groups;*~~

~~*(d) One member who is a representative of an employee organization;*~~

~~*(e) One member who performs scientific research concerning prescription drugs;*~~

~~*(f) One member who is a representative of the general public;*~~

~~*(g) One member who is a representative of manufacturers of generic prescription drugs; and*~~

~~*(h) One member who is a representative of nonprofit health carriers.*~~

~~*3. The Majority Leader of the Senate shall appoint to the Council:*~~

~~*(a) One member who is a representative of physicians;*~~

~~*(b) One member who is a representative of nurses;*~~

~~*(c) One member who is a representative of dentists;*~~

~~(d) One member who is a representative of hospitals;~~
~~(e) One member who is a representative of health carriers;~~
~~(f) One member who is a representative of the Budget Division of the Office of Finance;~~
~~(g) One member who is a representative of manufacturers of brand name prescription drugs;~~
~~(h) One member who performs clinical research concerning prescription drugs; and~~
~~(i) One member who is a representative of the general public.~~
~~4. The Governor shall appoint to the Council:~~
~~(a) One member who is a representative of manufacturers of brand name prescription drugs;~~
~~(b) One member who is a representative of manufacturers of generic prescription drugs;~~
~~(c) One member who is a representative of biotechnology companies;~~
~~(d) One member who is a representative of employers;~~
~~(e) One member who is a representative of pharmacy benefit managers;~~
~~(f) One member who is a representative of for-profit health carriers;~~
~~(g) One member who is a representative of pharmacists;~~
~~(h) One pharmacologist; and~~
~~(i) One member who is a representative of the general public.~~
~~5. In appointing the members of the Council described in subsections 2, 3 and 4, the appointing authorities shall coordinate the appointments when practicable so that the members of the Council reflect the ethnic and geographic diversity of this State.~~
~~6. Collectively, the members of the Council must have knowledge in the following subject areas:~~
~~(a) The business models of manufacturers.~~
~~(b) The supply chain for the production and distribution of prescription drugs.~~
~~(c) The practice of medicine or clinical training.~~
~~(d) Perspectives of consumers of prescription drugs.~~
~~(e) Trends in and drivers of the cost of health care.~~
~~(f) Clinical research or other research concerning the provision of health care.~~
~~(g) The Silver State Health Insurance Exchange established by NRS 695I.200.~~
~~7. After the initial terms, each member of the Council serves for a term of 3 years. Each member of the Council continues in office until his or her successor is appointed. Members may be reappointed for additional terms of 3 years in the same manner as the original appointments. Any vacancy occurring in the membership of the Council must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.~~

~~8. The members of the Council serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~9. At its first meeting and annually thereafter, the Council shall elect a Chair from among its members. A majority of the members of the Council constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Council.~~

~~10. A member of the Council who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Council and perform any work necessary to carry out the duties of the Council in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Council to:~~

~~(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Council; or~~

~~(b) Take annual leave or compensatory time for the absence.]~~ (Deleted by amendment.)

Sec. 16. ~~[1. The Prescription Drug Affordability Account is hereby created in the State General Fund. The Account must be administered by the Board.~~

~~2. The interest and income earned on:~~

~~(a) The money in the Account, after deducting any applicable charges; and~~

~~(b) Unexpended appropriations made to the Account from the State General Fund,~~

~~→ must be credited to the Account.~~

~~3. Any money remaining in the Account at the end of a fiscal year including, without limitation, any unexpended appropriations made to the Account from the State General Fund, does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.~~

~~4. The Board may accept gifts and grants of money from any source for deposit in the Account.~~

~~5. The money in the Account may only be used to pay the expenses incurred by the Board and the Council to perform the duties prescribed in sections 2 to 23, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. ~~[1. Using information available to the Board, including, without limitation, information obtained through a memorandum of understanding entered into pursuant to section 20 of this act, the Board shall identify:~~

~~(a) Each brand name prescription drug for which:~~

~~(1) If the prescription drug is a new drug, the wholesale acquisition cost is $30,000 or more per year or for a course of treatment; or~~

~~(2) The wholesale acquisition cost has increased by $3,000 or more in any 12-month period or, if a course of treatment using the prescription drug is less than 12 months, during the time period of a course of treatment.~~

~~(b) Each new biosimilar prescription drug that has a wholesale acquisition cost that is not at least 15 percent lower than the brand name prescription drug to which the new prescription drug is biosimilar;~~

~~(c) Each generic prescription drug for which the wholesale acquisition cost:~~

~~(1) Is $100 or more for:~~

~~(I) A supply of the drug for 30 days or less, as calculated using the recommended dosage approved by the United States Food and Drug Administration; or~~

~~(II) If no such recommended dosage has been approved, for one unit of the drug; or~~

~~(2) Increased by 200 percent or more during the immediately preceding calendar year; and~~

~~(d) Any other prescription drug for which the Board determines, in consultation with the Council, that the price of the drug may be creating significant challenges for insurers and patients in this State.~~

~~2. For each prescription drug identified pursuant to subsection 1, the Board shall, in consultation with the Council, determine whether to conduct a review of price of the drug pursuant to section 19 of this act. When determining whether to conduct such a review, the Board shall consider, without limitation, the average copayment or coinsurance required for the prescription drug in this State.~~

~~3. The dollar amounts set forth in this section must be adjusted by the Board every year by an amount equal to the percentage increase in the Consumer Price Index, Medical, for the immediately preceding year.~~

~~4. As used in this section, "biosimilar" means a prescription drug that is produced or distributed in accordance with a biologics license application approved pursuant to 42 U.S.C. § 262(k)(3).]~~ (Deleted by amendment.)

Sec. 19. ~~[1. The Board may review the price of any prescription drug identified as meeting the criteria prescribed by section 18 of this act to determine whether the price of the prescription drug is creating significant challenges for insurers and patients in this State.~~

~~2. In making a determination pursuant to subsection 1, the Board shall consider, to the extent that such information is available:~~

~~(a) The wholesale acquisition cost of the prescription drug;~~

~~(b) The average discount or rebate that the manufacturer of the prescription drug provides to health carriers in connection with the sale of the prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;~~

~~(c) The average discount or rebate that the manufacturer of the prescription drug provides to pharmacy benefit managers in connection with the sale of the~~

~~*prescription drug in this State and the percentage of the wholesale acquisition cost of the prescription drug that is covered by that average discount or rebate;*~~

~~*(d) The prices at which comparable alternative prescription drugs are sold in this State;*~~

~~*(e) The average discount or rebate that the manufacturers of comparable alternative prescription drugs provide to health carriers and pharmacy benefit managers in connection with the sale of those alternative prescription drugs in this State;*~~

~~*(f) The cost to health carriers to provide covered persons with access to the prescription drug in this State;*~~

~~*(g) The impact of the price of the prescription drug on access to the prescription drug in this State;*~~

~~*(h) The current or expected monetary value in this State of patient access programs that are specific to the prescription drug and supported by the manufacturer of the prescription drug;*~~

~~*(i) The impact of the price of the prescription drug on the cost of public health services, medical services and social services in this State relative to the impact of the prices of comparable alternative prescription drugs on such services;*~~

~~*(j) The average copayment or coinsurance paid by patients for the prescription drug in this State; and*~~

~~*(k) Any other factors prescribed by regulation of the Board.*~~

~~*3. If the Board is unable to make a determination pursuant to subsection 1 after considering the factors prescribed by subsection 2, the Board may consider:*~~

~~*(a) The research and development costs of the manufacturer, as indicated in publicly available tax documents or information filed with the Securities and Exchange Commission for the most recent tax year, in proportion to the sales of the manufacturer in this State;*~~

~~*(b) The percentage of the amount spent by the manufacturer for marketing prescription drugs directly to consumers that is:*~~

~~*(1) Eligible for favorable treatment with respect to federal taxes; and*~~

~~*(2) Attributable to the prescription drug;*~~

~~*(c) Gross and net revenues of the manufacturer for the most recent tax year;*~~

~~*(d) Any additional relevant factor recommended by the manufacturer; and*~~

~~*(e) Any other factor prescribed by regulation of the Board.]*~~ (Deleted by amendment.)

Sec. 20. ~~*[1. In conducting a review pursuant to this section 19 of this act, the Board may use any information relating to the selection of the price of the prescription drug by the manufacturer, including, without limitation, publicly available information, information disclosed to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, information obtained through a memorandum of understanding entered into pursuant to subsection 2 and information requested and obtained from a manufacturer, wholesaler, pharmacy benefit manager or health carrier.*~~

~~2. The Board may enter into a memorandum of understanding with any agency of another State for the sharing of information concerning the prices of prescription drugs, including, without limitation, information reported to the Department pursuant to NRS 439B.600 to 439B.695, inclusive.~~

~~3. Except as otherwise provided in this subsection, any proprietary information disclosed to or otherwise obtained by the Board pursuant to sections 2 to 23, inclusive, of this act, except for information previously made public, is confidential and is not a public record. Such information may be disclosed to an agency of another state pursuant to a memorandum of understanding entered into under the provisions of subsection 2 if the agency has requirements concerning the confidentiality of such information similar to those prescribed by this subsection.~~

~~4. Failure of a manufacturer, wholesaler, pharmacy benefit manager or health carrier to provide information requested by the Board pursuant to subsection 1 does not affect the authority of the Board to take any action authorized by sections 2 to 23, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 21. ~~[1. If the Board determines that it is in the best interest of this State to impose upper payment limits for purchases of prescription drugs by this State or any political subdivision thereof, the Board, in consultation with the Council, may adopt regulations prescribing:~~

~~(a) A process for imposing such upper payment limits; and~~

~~(b) The criteria, in addition to those prescribed by subsection 3, for imposing upper payment limits.~~

~~2. If the Board adopts regulations pursuant to subsection 1, the Board may, after conducting a review pursuant to section 19 of this act and determining that the price of a prescription drug is creating significant challenges for insurers and patients in this State, set an upper payment limit for purchases of the prescription drug by this State or any agency or political subdivision thereof, including, without limitation:~~

~~(a) The state prison, any county jail and any other detention facility for adults or children operated by this State or a political subdivision thereof;~~

~~(b) Any medical facility, as defined in NRS 449.0151, operated by this State or a political subdivision thereof;~~

~~(c) Any health clinic or other facility that provides health care at a college or university within the Nevada System of Higher Education; and~~

~~(d) The Medicaid program, the Public Employees' Benefits Program, coverage of prescription drugs provided by a local governmental agency pursuant to NRS 287.010 and any other coverage of prescription drugs provided by this State or a political subdivision thereof.~~

~~3. When establishing an upper payment limit for a prescription drug, the Board shall consider, to the extent that such information is available and relevant:~~

~~(a) The cost of administering the prescription drug;~~

~~(b) The cost of delivering the prescription drug to consumers;~~

~~(c) Any other relevant administrative costs related to the prescription drug;~~

~~(d) The information described in section 19 of this act; and~~

~~(e) Any other criteria prescribed by regulation of the Board.~~

~~4. The Board shall not impose an upper payment limit pursuant to this section for any prescription drug for which the United States Food and Drug Administration has determined that a shortage exists.~~

~~5. The Board:~~

~~(a) Shall monitor the availability of any drug for which an upper payment limit has been prescribed pursuant to this section; and~~

~~(b) May revise, suspend or rescind an upper payment limit imposed pursuant to this section if it determines that there is a shortage of the prescription drug in this State or conditions otherwise warrant the revision, suspension or rescinding of the upper payment limit, as applicable.~~

~~6. The Board shall collaborate with the Council, manufacturers, pharmacy benefit managers, health carriers, wholesalers, consumers of prescription drugs and other interested persons to:~~

~~(a) Establish and refine a methodology for prescribing upper payment limits pursuant to this section;~~

~~(b) Improve the quality and quantity of information received by the Board pursuant to section 20 of this act; and~~

~~(c) Study purchasing strategies to lower the price of any drug for which an upper payment limit is imposed pursuant to this section, including, without limitation, such a drug for which the upper payment limit is revised, suspended or rescinded pursuant to subsection 5.~~] (Deleted by amendment.)

Sec. 22. ~~[1. Any person aggrieved by a decision of the Board may submit a written appeal to the Board not later than 30 days after the date of the decision. The Board shall rule on the appeal not later than 60 days after receiving the appeal.~~

~~2. A decision of the Board concerning an appeal pursuant to subsection 1 is a final decision for purposes of judicial review.~~] (Deleted by amendment.)

Sec. 23. ~~[1. The Board may:~~

~~(a) Adopt any regulations necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.~~

~~(b) Enter into any contract necessary to carry out the provisions of sections 2 to 23, inclusive, of this act.~~

~~2. On or before December 31 of each year, the Board shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report that includes, without limitation:~~

~~(a) Information concerning trends in the price of prescription drugs;~~

~~(b) The number of prescription drugs that were reviewed pursuant to section 19 of this act and the outcomes of such reviews, any appeals submitted pursuant to section 22 of this act and any judicial review of such appeals; and~~

~~(c) Any recommendations of the Board to increase the affordability of prescription drugs in this State.~~] (Deleted by amendment.)

Sec. 24. [NRS 439B.670 is hereby amended to read as follows:

439B.670 1. Except as otherwise provided in subsection 2 and subsection 3 of NRS 439B.660, the Department shall:

(a) Place or cause to be placed on the Internet website maintained by the Department:

(1) The information provided by each pharmacy pursuant to NRS 439B.655;

(2) The information compiled by a nonprofit organization pursuant to NRS 439B.665 if such a report is submitted pursuant to paragraph (b) of subsection 1 of that section;

(3) The lists of prescription drugs compiled by the Department pursuant to NRS 439B.630;

(4) The wholesale acquisition cost of each prescription drug reported pursuant to NRS 439B.635; and

(5) The reports compiled by the Department pursuant to NRS 439B.650 and 439B.660.

(b) Ensure that the information placed on the Internet website maintained by the Department pursuant to paragraph (a) is organized so that each individual pharmacy, manufacturer and nonprofit organization has its own separate entry on that website; and

(c) Ensure that the usual and customary price that each pharmacy charges for each prescription drug that is on the list prepared pursuant to NRS 439B.625 and that is stocked by the pharmacy:

(1) Is presented on the Internet website maintained by the Department in a manner which complies with the requirements of NRS 439B.675; and

(2) Is updated not less frequently than once each calendar quarter.

→ Nothing in this subsection prohibits the Department from determining the usual and customary price that a pharmacy charges for a prescription drug by extracting or otherwise obtaining such information from claims reported by pharmacies to the Medicaid program.

2. If a pharmacy is part of a larger company or corporation or a chain of pharmacies or retail stores, the Department may present the pricing information pertaining to such a pharmacy in such a manner that the pricing information is combined with the pricing information relative to other pharmacies that are part of the same company, corporation or chain, to the extent that the pricing information does not differ among those pharmacies.

3. The Department may establish additional or alternative procedures by which a consumer who is unable to access the Internet or is otherwise unable to receive the information described in subsection 1 in the manner in which it is presented by the Department may obtain that information:

(a) In the form of paper records;

(b) Through the use of a telephonic system; or

(c) Using other methods or technologies designed specifically to assist consumers who are hearing impaired or visually impaired.

~~*4. The Department shall provide to the Prescription Drug Affordability Board established pursuant to section 12 of this act any information submitted to the Department pursuant to NRS 439B.600 to 439B.695, inclusive, upon the request of the Board.*~~

~~*5. As used in this section, "usual and customary price" means the usual and customary charges that a pharmacy charges to the general public for a drug, as described in 42 C.F.R. § 447.512.]*~~ (Deleted by amendment.)

Sec. 25. NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

(1) The Administrator of the Aging and Disability Services Division;

(2) The Administrator of the Division of Welfare and Supportive Services;

(3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and sections 31.05 to 31.2, inclusive, of this act,* 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public and Behavioral Health or the professional line activities of the other divisions.

(c) Shall administer any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(e) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which the Director deems necessary for the performance of the duties imposed upon him or her pursuant to this section.

(f) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

Sec. 26. ~~[NRS 233B.039 is hereby amended to read as follows:~~

~~233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:~~

~~(a) The Governor.~~

~~(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.~~

~~(c) The Nevada System of Higher Education.~~

~~(d) The Office of the Military.~~

~~(e) The Nevada Gaming Control Board.~~

~~(f) Except as otherwise provided in NRS 368A.140 and 463.765, the Nevada Gaming Commission.~~

~~(g) Except as otherwise provided in NRS 425.620, the Division of Welfare and Supportive Services of the Department of Health and Human Services.~~

~~(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.~~

~~(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.~~

~~(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.~~

~~(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.~~

~~(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.~~

~~(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 445C.310.~~

~~(n) The Silver State Health Insurance Exchange.~~

~~2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~

~~3. The special provisions of:~~

~~(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;~~

~~(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;~~

~~(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and~~

~~(d) NRS 90.800 for the use of summary orders in contested cases,~~

~~→ prevail over the general provisions of this chapter.~~

~~4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.~~

~~5. The provisions of this chapter do not apply to:~~

~~(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;~~

~~(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;~~

~~(c) A regulation adopted by the State Board of Education pursuant to NRS 388.255 or 394.1694;~~

~~(d) The judicial review of decisions of the Public Utilities Commission of Nevada; or~~

~~(e) The adoption, amendment or repeal of policies by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 426.561 or 615.178.~~

~~*(f) An upper payment limit prescribed by the Prescription Drug Affordability Board pursuant to section 21 of this act.*~~

~~6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.~~] (Deleted by amendment.)

Sec. 27. ~~[~~NRS 239.010 is hereby amended to read as follows:

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,~~

~~75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,~~

~~630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 20 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

~~2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.~~

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.~~

~~4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.~~

~~— (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.]~~ (Deleted by amendment.)

Sec. 28. NRS 241.016 is hereby amended to read as follows:

241.016 1. The meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter.

2. The following are exempt from the requirements of this chapter:

(a) The Legislature of the State of Nevada.

(b) Judicial proceedings, including, without limitation, proceedings before the Commission on Judicial Selection and, except as otherwise provided in NRS 1.4687, the Commission on Judicial Discipline.

(c) Meetings of the State Board of Parole Commissioners when acting to grant, deny, continue or revoke the parole of a prisoner or to establish or modify the terms of the parole of a prisoner.

3. Any provision of law, including, without limitation, NRS 91.270, 219A.210, 228.495, 239C.140, 281A.350, 281A.690, 281A.735, 281A.760, 284.3629, 286.150, 287.0415, 287.04345, 287.338, 288.220, 289.387, 295.121, 360.247, 388.261, 388A.495, 388C.150, 388G.710, 388G.730, 392.147, 392.467, 394.1699, 396.3295, *422.405*, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311, 630.336, 631.3635, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196 and 706.1725 , ~~*[and section 13 of this act,]*~~ which:

(a) Provides that any meeting, hearing or other proceeding is not subject to the provisions of this chapter; or

(b) Otherwise authorizes or requires a closed meeting, hearing or proceeding,

➥ prevails over the general provisions of this chapter.

4. The exceptions provided to this chapter, and electronic communication, must not be used to circumvent the spirit or letter of this chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 28.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides coverage of prescription drugs pursuant to NRS 287.010 or any issuer of a policy of health insurance purchased pursuant to NRS 287.010 may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

Sec. 29. (Deleted by amendment.)

Sec. 29.2. NRS 287.040 is hereby amended to read as follows:

287.040 The provisions of NRS 287.010 to 287.040, inclusive, *and section 28.5 of this act* do not make it compulsory upon any governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada, except as otherwise provided in NRS 287.021 or subsection 4 of NRS 287.023 or in an agreement entered into pursuant to subsection 3 of NRS 287.015, to pay any premiums, contributions or other costs for group insurance, a plan of benefits or medical or hospital services established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025, for coverage under the Public Employees' Benefits Program, or to make any contributions to a trust fund established pursuant to NRS 287.017, or upon any officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State to accept any such coverage or to assign his or her wages or salary in payment of premiums or contributions therefor.

Sec. 29.3. NRS 287.0433 is hereby amended to read as follows:

287.0433 *1.* The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the Program Fund, a schedule of benefits and the disbursement of benefits from the Program Fund. The Board may reinsure any risk or any part of such a risk.

2. If the Board provides coverage of prescription drugs pursuant to this section, the Board or any entity with which the Board enters into a contract to provide such coverage may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

Sec. 29.6. ~~[NRS 287.0433 is hereby amended to read as follows:~~

~~287.0433 1. The Board may establish a plan of life, accident or health insurance and provide for the payment of contributions into the Program Fund, a schedule of benefits and the disbursement of benefits from the Program Fund. The Board may reinsure any risk or any part of such a risk.~~

~~2. If the Board provides coverage of prescription drugs pursuant to this section, the Board or any entity with which the Board enters into a contract to provide such coverage [may] :~~

~~*(a) May* use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.~~

~~*(b) Shall not pay an amount for the prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this paragraph, the amount paid for a prescription drug*~~

~~*means the price paid for the drug, less any rebates received by the Board or other entity.]*~~ (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 31.05 to 31.2, inclusive, of this act.

Sec. 31.05. *"Health benefit plan" means a policy, contract, certificate or agreement offered to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.*

Sec. 31.07. *"Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.*

Sec. 31.1. *"Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.*

Sec. 31.15. *1. Except as otherwise provided in subsection 2, the Department shall directly manage, direct and coordinate all payments and rebates for prescription drugs and all other services and payments relating to the provision of prescription drugs under the State Plan for Medicaid and the Children's Health Insurance Program.*

2. The Department may enter into a contract with ~~*[a private insurer or]*~~ *:*

(a) A pharmacy benefit manager ~~*[pursuant to paragraph (b) of subsection 1 of NRS 422.4025]*~~ *for the provision of any services described in subsection 1.* ~~*[Such a]*~~

(b) A health maintenance organization pursuant to NRS 422.273 for the provision of any of the services described in subsection 1 for recipients of Medicaid or recipients of insurance through the Children's Health Insurance Program who receive coverage through a Medicaid managed care program.

3. A contract ~~*[:]*~~ *entered into pursuant to subsection 2 must:*

(a) ~~*[Must include]*~~ *Include the provisions required by section 31.2 of this act; and*

(b) ~~*[Must require]*~~ *Require the* ~~*[insurer or]*~~ *pharmacy benefit manager or health maintenance organization, as applicable, to disclose to the Department any information relating to the services covered by the contract, including, without limitation, information concerning dispensing fees, measures for the control of costs, rebates collected and paid and any fees and charges imposed by the* ~~*[insurer or]*~~ *pharmacy benefit manager or health maintenance organization pursuant to the contract .* ~~*[; and*~~

~~*(c) May]*~~

4. In addition to meeting the requirements of subsection 3, a contract entered into pursuant to:

(a) Paragraph (a) of subsection 2 may require the ~~*[insurer or]*~~ *pharmacy benefit manager to provide the entire amount of any rebates received for the purchase of prescription drugs , including, without limitation, rebates for the purchase of prescription drugs by an entity other than the Department, to the Department.*

(b) Paragraph (b) of subsection 2 must require the health maintenance organization to provide to the Department the entire amount of any rebates

received for the purchase of prescription drugs, including, without limitation, rebates for the purchase of prescription drugs by an entity other than the Department, less an administrative fee in an amount prescribed by the contract. The Department shall adopt policies prescribing the maximum amount of such an administrative fee.

Sec. 31.2. *1. Any ~~[agreement]~~ contract between the Department and a ~~[private insurer or]~~ pharmacy benefit manager ~~[to negotiate agreements for the purchase of prescription drugs pursuant to paragraph (b) of subsection 1 of NRS 422.4025]~~ or health maintenance organization entered into pursuant to section 31.15 of this act must require the ~~[insurer or]~~ pharmacy benefit manager ~~[,]~~ or health maintenance organization, as applicable, to:*

~~[1.]~~ (a) Submit to and cooperate with an annual audit by the Department to evaluate the ~~[insurer's or pharmacy benefit manager's]~~ compliance of the pharmacy benefit manager or health maintenance organization with the agreement and generally accepted accounting and business practices. The audit must analyze all claims processed by the ~~[insurer or]~~ pharmacy benefit manager or health maintenance organization pursuant to the agreement.

~~[2.]~~ (b) Obtain from an independent accountant, at the expense of the ~~[insurer or]~~ pharmacy benefit manager ~~[,]~~ or health maintenance organization, as applicable, an annual audit of internal controls to ensure the integrity of financial transactions and claims processing.

2. The Department shall post the results of any audit conducted pursuant to paragraph (a) of subsection 1 on an Internet website maintained by the Department.

Sec. 31.25. ~~[NRS 422.273 is hereby amended to read as follows:~~

~~422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:~~

~~(a) Negotiated in good faith with a federally qualified health center to provide health care services for the health maintenance organization;~~

~~(b) Negotiated in good faith with the University Medical Center of Southern Nevada to provide inpatient and ambulatory services to recipients of Medicaid; and~~

~~(c) Negotiated in good faith with the University of Nevada School of Medicine to provide health care services to recipients of Medicaid.~~

~~2. Nothing in this section shall be construed as exempting a federally qualified health center, the University Medical Center of Southern Nevada or the University of Nevada School of Medicine from the requirements for contracting with the health maintenance organization.~~

~~3. During the development and implementation of any Medicaid managed care program, the Department shall cooperate with the University of Nevada School of Medicine by assisting in the provision of an adequate and diverse group of patients upon which the school may base its educational programs.~~

~~4. The University of Nevada School of Medicine may establish a nonprofit organization to assist in any research necessary for the development of a~~

~~Medicaid managed care program, receive and accept gifts, grants and donations to support such a program and assist in establishing educational services about the program for recipients of Medicaid.~~

~~4. For the purpose of contracting with a Medicaid managed care program pursuant to this section, a health maintenance organization is exempt from the provisions of NRS 695C.123.~~

~~5. *Except as authorized by section 31.15 of this act, the Department shall not contract with a managed care organization for any services relating to coverage of prescription drugs for recipients of Medicaid. Such coverage must be managed and coordinated by the Department in accordance with NRS 422.401 to 422.406, inclusive, and sections 31.05 to 31.2, inclusive, of this act.*~~

~~6. The provisions of this section apply to any managed care organization, including a health maintenance organization, that provides health care services to recipients of Medicaid under the State Plan for Medicaid or the Children's Health Insurance Program pursuant to a contract with the Division. Such a managed care organization or health maintenance organization is not required to establish a system for conducting external reviews of adverse determinations in accordance with chapter 695B, 695C or 695G of NRS. This subsection does not exempt such a managed care organization or health maintenance organization for services provided pursuant to any other contract.~~

~~[6.] 7. As used in this section, unless the context otherwise requires:~~

~~(a) "Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).~~

~~(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.~~

~~(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.]~~ (Deleted by amendment.)

Sec. 31.3. NRS 422.401 is hereby amended to read as follows:

422.401 As used in NRS 422.401 to 422.406, inclusive, *and sections 31.05 to 31.2, inclusive of this act,* unless the context otherwise requires, the words and terms defined in NRS 422.4015 and 422.402 *and sections 31.05 and 31.1 of this act* have the meanings ascribed to them in those sections.

Sec. 31.35. NRS 422.4015 is hereby amended to read as follows:

422.4015 ~~["Committee"]~~ *"Board"* means the ~~[Pharmacy and Therapeutics Committee]~~ *Silver State Scripts Board* established pursuant to NRS 422.4035.

Sec. 31.4. NRS 422.4025 is hereby amended to read as follows:

422.4025 1. The Department shall ~~[, by]~~ *:*

(a) By regulation, develop a list of preferred prescription drugs to be used for the Medicaid program ~~[.]~~ *and the Children's Health Insurance Program, and each public or nonprofit health benefit plan that elects to use the list of preferred prescription drugs as its formulary pursuant to NRS 287.0433 or section 28.5 or 33 of this act; and*

(b) Negotiate and enter into agreements to purchase the drugs included on the list of preferred prescription drugs on behalf of the health benefit plans

described in paragraph (a) or enter into a contract pursuant to section 31.15 of this act with a ~~[private insurer or]~~ pharmacy benefit manager or health maintenance organization, as appropriate, to negotiate such agreements. ~~[The Department may, by regulation, require any rebates received through an agreement entered into pursuant to this paragraph, including, without limitation, rebates for the purchase of drugs by an entity other than the Department, to be paid to the Department.]~~

2. The Department shall, by regulation, establish a list of prescription drugs which must be excluded from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs established pursuant to subsection 1. The list established pursuant to this subsection must include, without limitation:

(a) ~~[Atypical and typical antipsychotic medications that are prescribed for the treatment of a mental illness of a patient who is receiving services pursuant to Medicaid;~~

~~(b)]~~ Prescription drugs that are prescribed for the treatment of the human immunodeficiency virus or acquired immunodeficiency syndrome, including, without limitation, protease inhibitors and antiretroviral medications;

~~[(c) Anticonvulsant medications;~~

~~(d)]~~ *(b)* Antirejection medications for organ transplants;

~~[(e) Antidiabetic medications;~~

~~(f)]~~ *(c)* Antihemophilic medications; and

~~[(g)]~~ *(d)* Any prescription drug which the ~~[Committee]~~ *Board* identifies as appropriate for exclusion from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs.

3. The regulations must provide that the ~~[Committee]~~ *Board* makes the final determination of:

(a) Whether a class of therapeutic prescription drugs is included on the list of preferred prescription drugs and is excluded from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs;

(b) Which therapeutically equivalent prescription drugs will be reviewed for inclusion on the list of preferred prescription drugs and for exclusion from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs; and

(c) Which prescription drugs should be excluded from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs based on continuity of care concerning a specific diagnosis, condition, class of therapeutic prescription drugs or medical specialty.

4. The regulations must provide that each new pharmaceutical product and each existing pharmaceutical product for which there is new clinical evidence supporting its inclusion on the list of preferred prescription drugs must be made available pursuant to the Medicaid program with prior authorization until the ~~[Committee]~~ *Board* reviews the product or the evidence.

5. On or before February 1 of each year, the Department shall:

(a) Compile a report concerning the agreements negotiated pursuant to paragraph (b) of subsection 1 and contracts entered into pursuant to section 31.15 of this act which must include, without limitation, the ~~[total amount of money saved by the health benefit plans described in paragraph (a) of subsection 1 by]~~ financial effects of obtaining prescription drugs through those agreements ~~[,]~~ and contracts, in total and aggregated separately for agreements negotiated by the Department, contracts with a pharmacy benefit manager and contracts with a health maintenance organization; and

(b) ~~[Submit]~~ Post the report on an Internet website maintained by the Department and submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In odd-numbered years, the Legislature; or

(2) In even-numbered years, the Legislative Commission.

Sec. 31.45. NRS 422.403 is hereby amended to read as follows:

422.403 1. The Department shall, by regulation, establish and manage the use by the Medicaid program of step therapy and prior authorization for prescription drugs.

2. The Drug Use Review Board shall:

(a) Advise the Department concerning the use by the Medicaid program of step therapy and prior authorization for prescription drugs;

(b) Develop step therapy protocols and prior authorization policies and procedures for use by the Medicaid program for prescription drugs; and

(c) Review and approve, based on clinical evidence and best clinical practice guidelines and without consideration of the cost of the prescription drugs being considered, step therapy protocols used by the Medicaid program for prescription drugs.

3. The Department shall not require the Drug Use Review Board to develop, review or approve prior authorization policies or procedures necessary for the operation of the list of preferred prescription drugs developed ~~[for the Medicaid program]~~ pursuant to NRS 422.4025.

4. The Department shall accept recommendations from the Drug Use Review Board as the basis for developing or revising step therapy protocols and prior authorization policies and procedures used by the Medicaid program for prescription drugs.

Sec. 31.5. ~~[NRS 422.403 is hereby amended to read as follows:~~

~~422.403 1. The Department shall, by regulation, establish and manage the use by the Medicaid program of step therapy and prior authorization for prescription drugs.~~

~~2. The Drug Use Review Board shall:~~

~~(a) Advise the Department concerning the use by the Medicaid program of step therapy and prior authorization for prescription drugs;~~

~~(b) Develop step therapy protocols and prior authorization policies and procedures for use by the Medicaid program for prescription drugs; and~~

~~(c) Review and approve, based on clinical evidence and best clinical practice guidelines and without consideration of the cost of the prescription~~

~~drugs being considered, step therapy protocols used by the Medicaid program for prescription drugs.~~

~~3. The Department shall not require the Drug Use Review Board to develop, review or approve prior authorization policies or procedures necessary for the operation of the list of preferred prescription drugs developed pursuant to NRS 422.4025.~~

~~4. The Department shall accept recommendations from the Drug Use Review Board as the basis for developing or revising step therapy protocols and prior authorization policies and procedures used by the Medicaid program for prescription drugs.~~

~~*5. The Department shall not pay an amount for a prescription drug distributed pursuant to Medicaid or the Children's Health Insurance Program that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this subsection, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the Department.]*~~ (Deleted by amendment.)

Sec. 31.55. NRS 422.4035 is hereby amended to read as follows:

422.4035 1. The Director shall create ~~[a Pharmacy and Therapeutics Committee]~~ *the Silver State Scripts Board* within the Department. The ~~[Committee]~~ *Board* must consist of ~~[at least 5]~~ *such* members ~~[and not more than 11 members]~~ *as are* appointed by the ~~[Governor based on recommendations from the]~~ Director.

2. The ~~[Governor]~~ *Director* shall appoint to the ~~[Committee]~~ *Board* health care professionals who have knowledge and expertise in one or more of the following:

(a) The clinically appropriate prescribing of outpatient prescription drugs that are covered by Medicaid;

(b) The clinically appropriate dispensing and monitoring of outpatient prescription drugs that are covered by Medicaid;

(c) The review of, evaluation of and intervention in the use of prescription drugs; and

(d) Medical quality assurance.

3. At least one-third of the members of the ~~[Committee]~~ *Board* must be active physicians licensed to practice medicine in this State, at least one of whom must be an active psychiatrist licensed to practice medicine in this State. At least one-third of the members of the ~~[Committee]~~ *Board* must be either active pharmacists registered in this State or persons in this State with doctoral degrees in pharmacy.

4. A person must not be appointed to the ~~[Committee]~~ *Board* if the person is employed by, compensated by in any manner, has a financial interest in, or is otherwise affiliated with a business or corporation that manufactures prescription drugs.

Sec. 31.6. NRS 422.404 is hereby amended to read as follows:

422.404 1. The ~~[Governor]~~ *Director* shall appoint the Chair of the ~~[Committee]~~ *Board* from among its members.

2. After the initial terms, the term of each member of the ~~[Committee]~~ *Board* is 2 years. A member may be reappointed.

3. A vacancy occurring in the membership of the ~~[Committee]~~ *Board* must be filled for the remainder of the unexpired term in the same manner as the original appointment.

4. The ~~[Committee]~~ *Board* shall meet at least once every 3 months and at the times and places specified by a call of the Chair of the ~~[Committee.]~~ *Board.*

5. A majority of the members of the ~~[Committee]~~ *Board* constitutes a quorum for the transaction of business, and the affirmative vote of a majority of the members of the ~~[Committee]~~ *Board* is required to take action.

Sec. 31.7. NRS 422.4045 is hereby amended to read as follows:

422.4045 1. Members of the ~~[Committee]~~ *Board* serve without compensation, except that a member of the ~~[Committee]~~ *Board* is entitled, while engaged in the business of the ~~[Committee,]~~ *Board,* to receive the per diem allowance and travel expenses provided for state officers and employees generally.

2. Each member of the ~~[Committee]~~ *Board* who is an officer or employee of the State of Nevada or a local government must be relieved from his or her duties without loss of regular compensation so that the person may prepare for and attend meetings of the ~~[Committee]~~ *Board* and perform any work necessary to carry out the duties of the ~~[Committee]~~ *Board* in the most timely manner practicable. A state agency or local governmental entity shall not require an officer or employee who is a member of the ~~[Committee]~~ *Board* to make up the time that the officer or employee is absent from work to carry out any duties as a member of the ~~[Committee]~~ *Board* or to use annual vacation or compensatory time for the absence.

Sec. 31.8. NRS 422.405 is hereby amended to read as follows:

422.405 1. The Department shall, by regulation, set forth the duties of the ~~[Committee]~~ *Board,* which must include, without limitation:

(a) Identifying the prescription drugs which should be included on the list of preferred prescription drugs developed by the Department ~~[for the Medicaid program]~~ pursuant to NRS 422.4025 ~~[and]~~ *, which must include, without limitation, any prescription drug required by the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to be covered by the Medicaid program and any other prescription drug deemed essential by the Board;*

(b) Identifying the prescription drugs which should be excluded from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs;

~~[(b)]~~ *(c)* Identifying classes of therapeutic prescription drugs for its review and performing a clinical analysis of each drug included in each class that is identified for review; and

~~[(c)]~~ *(d)* Reviewing at least annually all classes of therapeutic prescription drugs on the list of preferred prescription drugs developed by the Department ~~[for the Medicaid program]~~ pursuant to NRS 422.4025.

2. The Department shall, by regulation, require the ~~[Committee]~~ *Board* to:

(a) Base its decisions on evidence of clinical efficacy, ~~[and]~~ safety ~~[without consideration of the cost of the prescription drugs being considered by the Committee;]~~ *and outcomes for patients and, if the difference between the clinical efficacy, safety and outcomes for two or more drugs is not clinically significant, cost;*

(b) Review new pharmaceutical products in as expeditious a manner as possible; and

(c) Consider new clinical evidence supporting the inclusion of an existing pharmaceutical product on the list of preferred prescription drugs developed by the Department ~~[for the Medicaid program]~~ and new clinical evidence supporting the exclusion of an existing pharmaceutical product from any restrictions that are imposed *by the Medicaid program* on drugs that are on the list of preferred prescription drugs in as expeditious a manner as possible.

3. The Department shall, by regulation, authorize the ~~[Committee]~~ *Board* to:

(a) In carrying out its duties, exercise clinical judgment and analyze peer review articles, published studies, and other medical and scientific information; and

(b) Establish subcommittees to analyze specific issues that arise as the ~~[Committee]~~ *Board* carries out its duties.

4. The Board may close any portion of a meeting during which it considers the cost of prescription drugs.

Sec. 31.9. NRS 422.406 is hereby amended to read as follows:

422.406 1. The Department may, to carry out its duties set forth in NRS 422.27172 to 422.27178, inclusive, and 422.401 to 422.406, inclusive, *and sections 31.05 to 31.2, inclusive, of this act* and to administer the provisions of those sections:

(a) Adopt regulations; and

(b) Enter into contracts for any services.

2. Any regulations adopted by the Department pursuant to NRS 422.27172 to 422.27178, inclusive, and 422.401 to 422.406, inclusive, *and sections 31.05 to 31.2, inclusive, of this act* must be adopted in accordance with the provisions of chapter 241 of NRS.

Sec. 32. (Deleted by amendment.)

Sec. 32.5. NRS 683A.178 is hereby amended to read as follows:

683A.178 *1.* A pharmacy benefit manager has ~~[a fiduciary duty to]~~ *an obligation of good faith and fair dealing toward* a third party ~~[with]~~ *or pharmacy when performing duties pursuant to a contract to* which the pharmacy benefit manager ~~[has entered into a contract to manage the pharmacy benefits plan of the third party and]~~ *is a party. Any provision of a contract that waives or limits that obligation is against public policy, void and unenforceable.*

2. A pharmacy benefit manager shall notify ~~[the]~~ *a* third party *with which it has entered into a contract* in writing of any activity, policy or practice of

the pharmacy benefit manager that presents a conflict of interest that interferes with the ~~[ability of the pharmacy benefit manager to discharge that fiduciary duty.]~~ *obligations imposed by subsection 1.*

Sec. 33. Chapter 687B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A nonprofit health benefit plan may use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department.

2. As used in this section "health benefit plan" has the meaning ascribed to it in section 31.05 of this act.

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 35.5. ~~[Section 28.5 of this act is hereby amended to read as follows:~~

~~Sec. 28.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~A governing body of a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides coverage of prescription drugs pursuant to NRS 287.010 or any issuer of a policy of health insurance purchased pursuant to NRS 287.010 [may] :~~

~~*1. May* use the list of preferred prescription drugs developed by the Department of Health and Human Services pursuant to subsection 1 of NRS 422.4025 as its formulary and obtain prescription drugs through the purchasing agreements negotiated by the Department pursuant to that section by notifying the Department in the form prescribed by the Department [.] ; *and*~~

~~*2. Shall not pay an amount for a prescription drug that exceeds any upper payment limit prescribed for that drug pursuant to section 21 of this act. For the purposes of this subsection, the amount paid for a prescription drug means the price paid for the drug, less any rebates received by the governing body or issuer, as applicable.]~~ (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 36.1. ~~[As used in sections 36.1 to 38.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36.2 to 36.8, inclusive, of this act have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 36.2. ~~["Health carrier" has the meaning ascribed to it in section 7 of this act.]~~ (Deleted by amendment.)

Sec. 36.3. ~~["Manufacturer" has the meaning ascribed to it in NRS 639.009.]~~ (Deleted by amendment.)

Sec. 36.4. [~~"Pharmacy benefit manager" has the meaning ascribed to it in NRS 683A.174.~~] (Deleted by amendment.)

Sec. 36.5. [~~"Prescription Drug Affordability Board" means the Prescription Drug Affordability Board established by section 12 of this act.~~] (Deleted by amendment.)

Sec. 36.6. [~~"Prescription Drug Affordability Stakeholder Council" means the Prescription Drug Affordability Stakeholder Council established by section 15 of this act.~~] (Deleted by amendment.)

Sec. 36.8. [~~"Wholesaler" has the meaning ascribed to it in NRS 639.016.~~] (Deleted by amendment.)

Sec. 37. [~~As soon as practicable after July 1, 2019:~~

~~1. The Governor and the Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Board:~~

~~(a) The regular members described in paragraphs (a) and (b), respectively, of subsection 1 of section 12 of this act to terms of 2 years; and~~

~~(b) The alternate members described in paragraphs (a) and (b), respectively, of subsection 2 of section 12 of this act to terms of 4 years.~~

~~2. The Speaker of the Assembly, the Attorney General and the Majority Leader of the Senate and Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the regular members described in paragraphs (c), (d) and (e), respectively, of subsection 1 of section 12 of this act to terms of 4 years.~~

~~3. The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Board the alternate member described in paragraph (c) of subsection 2 of section 12 of this act to a term of 2 years.~~] (Deleted by amendment.)

Sec. 38. [~~As soon as practicable after July 1, 2019:~~

~~1. The Speaker of the Assembly shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (a), (b) and (c) of subsection 2 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (d), (e) and (f) of subsection 2 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (g) and (h) of subsection 2 of section 15 of this act to terms of 3 years.~~

~~2. The Majority Leader of the Senate shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (g), (h) and (i) of subsection 3 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (b), (e) and (d) of subsection 3 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (a), (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.~~

~~3. The Governor shall appoint to the Prescription Drug Affordability Stakeholder Council:~~

~~(a) The members described in paragraphs (a), (b) and (c) of subsection 3 of section 15 of this act to terms of 1 year;~~

~~(b) The members described in paragraphs (g), (h) and (i) of subsection 3 of section 15 of this act to terms of 2 years; and~~

~~(c) The members described in paragraphs (d), (e) and (f) of subsection 3 of section 15 of this act to terms of 3 years.~~] (Deleted by amendment.)

Sec. 38.3. ~~[1. On or before December 31, 2020, the Prescription Drug Affordability Board, in collaboration with the Prescription Drug Affordability Stakeholder Council, shall:~~

~~(a) Study the system of distributing and paying for prescription drugs in this State and policy options used in other states and countries to lower the wholesale acquisition cost of prescription drugs, including, without limitation, setting upper payment limits, using reverse auctions and bulk purchasing; and~~

~~(b) Submit to the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report of the findings of the study, any recommendations for legislation to implement policies determined effective by the Board and the manner in which the findings of the study will affect the actions of the Board taken pursuant to section 21 of this act.~~

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

~~(a) "Reverse auction" means a process by which a bidder may submit more than one bid if each subsequent response to bidding is at a lower price.~~

~~(b) "Upper payment limit" means a maximum amount that may be paid for a dose of a prescription drug.~~

~~(c) "Wholesale acquisition cost" has the meaning ascribed to it in NRS 439B.620.~~] (Deleted by amendment.)

Sec. 38.5. ~~[On or before December 31, 2020, the Prescription Drug Affordability Board shall:~~

~~1. Collect and review publicly available information concerning manufacturers, health carriers, wholesalers and pharmacy benefit managers that is relevant to the pricing of prescription drugs; and~~

~~2. Identify states that require reporting on the cost of prescription drugs and seek to enter into memorandums of understanding pursuant to section 20 of this act for the sharing of information with those states.~~] (Deleted by amendment.)

Sec. 38.7. ~~[On or before December 31, 2020, the Prescription Drug Affordability Board shall:~~

~~1. Study potential funding sources for the Board, including, without limitation:~~

~~(a) Imposing a fee on manufacturers, pharmacy benefit managers, health carriers, wholesalers or other entities involved in the distribution or purchasing of prescription drugs;~~

~~(b) Using rebates obtained by public insurance plans in this State, including, without limitation, Medicaid, the Public Employees' Benefits Program and plans established by governing bodies of local governments pursuant to NRS 287.010; and~~

~~(c) Any other methods of funding determined by the Board to be feasible and appropriate.~~

~~2. Select a method or combination of methods of funding that the Board determines will provide adequate money for the operation of the Board.~~

~~3. Submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report of recommendations for legislation necessary to utilize the method or methods of funding selected by the Board.~~] (Deleted by amendment.)

Sec. 38.9. ~~[On or before November 1, 2024, the Department of Health and Human Services, in consultation with the Prescription Drug Affordability Board and the Prescription Drug Affordability Stakeholder Council, shall:~~

~~1. Develop a report concerning the impact of state and local policies, including, without limitation, any actions taken pursuant to sections 2 to 23, inclusive, of this act, on the affordability of prescription drugs and access to hospital services in this State; and~~

~~2. Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.~~] (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 39.5. 1. Notwithstanding any other provision of law, the terms of the members appointed to the Pharmacy and Therapeutics Committee established pursuant to NRS 422.4035, as that section exists on June 30, 2019, expire on that date.

2. The Director of the Department of Health and Human Services may appoint to the Silver State Scripts Board established pursuant to NRS 422.4035, as amended by section 31.55 of this act, a person who served as a member of the Pharmacy and Therapeutics Committee established pursuant to NRS 422.4035, as that section exists on June 30, 2019.

Sec. 40. ~~[1.]~~ The amendatory provisions of sections 31.15 ~~[,]~~ and 31.2 ~~[and 31.25]~~ of this act do not apply to any contract or other agreement entered into before ~~[July 1, 2019,]~~ January 1, 2020, but apply to ~~[any]~~ the renewal of any such contract or other agreement and to any contract or other agreement entered into or renewed on or after ~~[July 1, 2019.~~

~~2. The amendatory provisions of sections 21, 26, 29.6, 31.5 and 35.5 of this act apply to any contract or other agreement entered into before, on or after~~] January 1, ~~[2022.]~~ 2020.

Sec. 41. 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. 42. ~~[1. This section and sections 1 to 20, inclusive, 22 to 25, inclusive, 27 to 29.3, inclusive, 31 to 31.45, inclusive, 31.55 to 33, inclusive, and 36.1 to 41, inclusive, of this act become effective on July 1, 2019.~~

~~2. Sections 21, 26, 29.6, 31.5 and 35.5 of this act become effective on January 1, 2022.~~] This act becomes effective:

1. 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

2. On January 1, 2020, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1016 to Senate Bill No. 378 deletes provisions relating to the pricing of prescription drugs. It adds in section 31.15, that the Department of Health and Human Services may enter into a contract with a health maintenance organization, in addition to a pharmacy benefit manager for the provision of prescription drug coverage services under the State Plan for Medicaid and the Children's Health Insurance Program, which is in section 31.15.

It adds that a health maintenance organization that contracts with the Department must provide to the Department any information concerning the prescription drug coverage services provided, which is in section 31.15, that all rebates received through the purchase of prescription drugs, and submit to and cooperate with an annual audit, which is in section 31.2.

The amendment adds a provision in addition to a pharmacy-benefit manager, the Department shall enter into a contract with a health maintenance organization to negotiate agreements to purchase prescription drugs included on the list of preferred prescription drugs in section 31.4; revises the reporting requirements of the Department in section 31.4 to include the financial effects of obtaining prescription drugs through contracts with a pharmacy benefit manager and contracts with a health maintenance organization. It adds in section 31.4 that the report shall be posted on an Internet website maintained by the Department, and replaces the fiduciary duty imposed on a pharmacy-benefit manager with an obligation of good faith and fair dealing toward a third party or pharmacy when performing contractual duties, which is in section 32.5.

Finally, in section 42, the amendment revises the act to become effective upon passage and approval for the purposes of adopting regulations and performing any necessary administrative tasks; and on January 1, 2020, for all other purposes.

Amendment adopted.

Bill read third time.

Remarks by Senators Cancela and Kieckhefer.

SENATOR CANCELA:

Senate Bill No. 378 authorizes the Division of Health Care Financing and Policy to carve out Medicaid pharmacy benefits from managed care, whereby the Division could manage pharmacy benefits for all Medicaid participants internally. The bill increases program transparency by specifying that certain pharmaceutical-related contracts would require the contractor to submit to an annual audit and obtain an annual internal control audit. Senate Bill No. 378 authorizes group purchasing by governmental and nonprofit health plans by allowing these entities to obtain pharmaceuticals through purchasing agreements negotiated by the Department of Health and Human Services. Senate Bill No. 378 removes certain categories of drugs from being excluded from the preferred drug list, including atypical and typical antipsychotic medications, anticonvulsants and antidiabetics. Finally this act, is effective upon passage and approval for the purposes of adopting any regulations and performing preparatory administrative tasks necessary to carry out the provisions of the bill; and on January 1, 2020, for all other purposes.

SENATOR KIECKHEFER:

I rise in support of Senate Bill No. 378 and would like to thank the sponsor of this bill. I had concerns about section 31.4 of the bill related to the preferred drug list, Medicaid and the removal of typical and atypical antipsychotic medications and anticonvulsants from that list. I have been assured by the Division of Healthcare Financing and Policy that this will not result in the development of any fail-first policies for our mental-health patients who are enrolled in Medicaid, and with that, I feel comfortable supporting the bill.

Roll call on Senate Bill No. 378:
YEAS—19.
NAYS—None.
EXCUSED—Hardy, Washington—2.

Senate Bill No. 378 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 432

The following Assembly amendments were read:

Amendment No. 841

SUMMARY—Revises provisions relating to certain financial transactions. (BDR 52-1146)

AN ACT relating to financial services; imposing certain requirements on certain transactions in which a person provides money to a consumer who has a pending legal action in exchange for certain proceeds from that legal action; requiring certain persons who engage in such transactions to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections ~~[2-38]~~ 2-38.9 of this bill establish provisions relating to transactions in which a person provides a consumer who has a pending legal claim in this State with money and the consumer assigns to that person the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained as a result of the legal action of the consumer. Section 10 of this bill designates this type of transaction as a "consumer litigation funding transaction." Section 8 of this bill designates the provider of money to a consumer in such a transaction as a "consumer litigation funding company."

Sections 18, 19 and 19.3 of this bill generally require a contract to enter into a consumer litigation funding transaction to meet certain requirements and contain certain disclosures relating to the amount of fees the consumer will be charged and the rights of the consumer with regard to the consumer litigation funding transaction.

Section 20 of this bill prohibits a consumer litigation funding company from: (1) paying or accepting certain referral fees or commissions; (2) referring a consumer to engage certain professionals; (3) advertising false information; (4) entering into a consumer litigation funding transaction with a consumer who has already received money from another company, with certain exceptions; (5) making decisions with regard to the legal claim of the consumer; and (6) paying certain legal fees of the consumer with money from the consumer funding transaction.

Section 21 of this bill requires the amount the consumer is required to pay the consumer litigation funding company in exchange for the money received by the consumer to be set as a predetermined amount. Section 21 prohibits a company from charging fees that exceed a rate of 40 percent annually.

Section 25 of this bill prohibits a person from engaging in business as a consumer litigation funding company without a license issued by the Commissioner of Financial Institutions. Section 25 provides that a person who engages in such business without a license is guilty of a misdemeanor. Sections 26-32 of this bill set forth the application process to obtain such a license and set forth certain requirements an applicant must meet.

Sections 35 and 36 of this bill require a person who has obtained a license to engage in business as a consumer litigation funding company to maintain assets of at least $50,000 and to keep certain records. Section 36.2 of this bill requires the Commissioner to make an annual examination of a licensee. Sections 38.3 and 38.6 of this bill authorize the Commissioner to impose fines and suspend or revoke the license of a licensee for certain violations of the provisions of this bill. Section 38.2 of this bill authorizes the Commissioner to take certain additional actions against a licensee or certain other persons for violations of the provisions of this bill. Section 38 of this bill requires each licensee to submit to the Commissioner an annual report with certain information regarding the activities of the licensee in the preceding year and to make the information contained in the report available to the public not later than 1 year after the report is submitted. Section 38.9 of this bill authorizes: (1) a person to file a complaint against a licensee; and (2) the Commissioner to investigate and hold hearings concerning such a complaint. Sections 36.4, 36.6 and 38.95 of this bill require a licensee to pay certain assessments.

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[38,]~~ *38.9,* inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advertise" means the commercial use of any medium, including, without limitation, radio, television, the Internet or a similar medium of communication, by a consumer litigation funding company for the purpose of inducing a consumer to enter into a consumer litigation funding transaction.*

Sec. 3.5. *"Applicant" means a person who applies to the Commissioner to obtain a license to engage in the business of a consumer litigation funding company pursuant to the provisions of this chapter. The term does not include a parent company or affiliate of such a person.*

Sec. 4. *"Charges" means the amount of money to be paid to a consumer litigation funding company by a consumer above the funded amount provided by the consumer litigation company to the consumer. The term includes,*

without limitation, administrative fees, origination fees, underwriting fees or other fees, however denominated. The term does not include a document preparation fee.

Sec. 5. *"Commissioner" means the Commissioner of Financial Institutions.*

Sec. 6. *"Consumer" means a natural person who:*

1. Resides or is domiciled in this State; and

2. Has a pending legal claim.

Sec. 7. *"Consumer litigation funding" means the money provided directly or indirectly to a consumer by a consumer litigation funding company in a consumer litigation funding transaction.*

Sec. 8. *1. "Consumer litigation funding company" or "company" means a person that enters into a consumer litigation funding transaction with a consumer.*

2. The term does not include:

(a) An immediate family member of a consumer;

(b) An attorney or accountant who provides services to a consumer; ~~[or]~~

(c) A medical provider that provides medical services on the basis of a lien against any potential litigation recovery;

(d) A medical factoring company; or

(e) A financial institution or similar entity:

(1) That provides financing to a consumer litigation funding company; or

(2) To which a consumer litigation funding company grants a security interest or transfers any right or interest in a consumer litigation funding transaction.

Sec. 9. *"Consumer litigation funding contract" means a written agreement between a consumer and a consumer litigation funding company that provides for a consumer litigation funding transaction.*

Sec. 10. *"Consumer litigation funding transaction" means a nonrecourse transaction in which:*

1. A consumer litigation funding company provides consumer litigation funding to a consumer; and

2. The consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the legal claim of the consumer.

Sec. 10.5. "Document preparation fee" means a one-time fee per legal claim, not to exceed $500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.

Sec. 11. *"Funded amount" means the amount of consumer litigation funding provided to or on behalf of a consumer in a consumer litigation funding transaction. The term does not include charges.*

Sec. 12. *"Funding date" means the date on which a company transfers to a consumer the funded amount of consumer litigation funding.*

Sec. 13. *"Immediate family member" means a parent, sibling, child by blood, adoption or marriage, spouse, grandparent or grandchild.*

Sec. 14. *"Legal claim" means a bona fide civil claim or cause of action.*

Sec. 15. *"Licensee" means a person who has been issued one or more licenses to engage in the business of a consumer litigation funding company.*

Sec. 16. *"Resolution date" means the date upon which:*

(a) A consumer, or a person on behalf of a consumer, delivers to a consumer litigation company an amount of money equivalent to the funded amount plus any agreed upon charges; or

(b) The legal claim of a consumer is lost or abandoned.

Sec. 17. ~~*[1.]*~~ *The Commissioner may adopt regulations* ~~*[and make orders]*~~ *for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter.*

~~*[2. Any ruling, demand, requirement or similar administrative act may be promulgated by an order.*~~

~~*3. Every order must be in writing, must state its effective date and the date of its promulgation, and must be entered in an indexed permanent book which is a public record.*~~

~~*4. A copy of every order containing a requirement of general application must be mailed to each licensee at least 20 days before the effective date thereof.]*~~

Sec. 18. *1. A consumer litigation funding contract must:*

(a) Be written in a clear and comprehensible language that is understandable to an ordinary layperson.

(b) Be filled out completely when presented to the consumer for signature.

(c) Contain a provision ~~*[entitling]*~~ *advising a consumer* ~~*[to]*~~ *of the right* ~~*[of rescission.]*~~ *to cancel the contract. Such a provision must provide that the consumer may cancel the contract without penalty or further obligation if, within 5 business days after the funding date, the consumer:*

(1) ~~*[Returns]*~~ *Delivers in person to the consumer litigation funding company , at the address specified in the contract, the uncashed check issued by the consumer litigation funding company or the full amount of money that was disbursed to the consumer by the consumer litigation funding company ;* ~~*[by delivering to the office of the company in person the uncashed check issued by the company;]*~~ *or*

(2) Mails, by insured, certified or registered mail, to the address specified in the contract, a notice of cancellation and includes in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to the consumer by the consumer litigation funding company . ~~*[in the form of the uncashed check issued by the company or a registered or certified check or money order.]*~~

(d) Contain the initials of the consumer on each page.

(e) Contain a statement that the consumer is not required to pay any other fees or charges other than what is agreed to and disclosed within the contract.

(f) If the consumer seeks more than one consumer litigation funding contract with the same company, contain a disclosure providing the cumulative amount due from the consumer for all consumer litigation funding

transactions, including, without limitation, all fees and charges under all consumer litigation funding contracts if repayment is made any time after the contracts are executed.

(g) Contain a statement of the maximum amount the consumer may be obligated to pay under the consumer litigation funding contract other than in the case of material breach, fraud or misrepresentation by the consumer.

(h) Contain clear , ~~[and]~~ conspicuous and accurate details of how charges, including, without limitation, any applicable fees, are incurred or accrued.

(i) Contain a statement that the consumer litigation funding contract is governed by the laws of the State of Nevada.

2. A consumer litigation contract must contain a written acknowledgment by the attorney retained by the consumer in the legal claim of the consumer attesting to the following:

(a) To the best of the knowledge of the attorney, the funded amount and any charges and applicable fees relating to the consumer litigation funding have been disclosed to the consumer.

(b) The attorney is being paid on a contingency basis pursuant to a written fee agreement.

(c) All proceeds of the legal claim will be disbursed via the trust account of the attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer.

(d) The attorney is following the written irrevocable instructions of the consumer with regard to the consumer litigation funding transaction.

(e) The attorney is obligated to disburse money from the legal claim and take any other steps to ensure that the terms of the consumer litigation funding contract are fulfilled.

(f) The attorney has not received a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding, nor will the attorney receive such fee or other consideration in the future.

(g) The attorney has not provided ~~[no]~~ advice related to taxes, benefits or any other financial matter regarding this transaction.

3. A consumer litigation funding contract that does not contain the written acknowledgment required by paragraph (c) of subsection 2 is void. If the acknowledgment is completed, the contract shall remain valid if the consumer terminates the representation of the initial attorney or retains a new attorney with respect to the legal claim of the consumer.

Sec. 19. *A consumer litigation funding contract must contain the disclosures specified in this section, which shall constitute material terms of the contract. Except as otherwise provided in this section, the disclosure shall be typed in at least 12-point bold type or font and be placed clearly and conspicuously within the contract, as follows:*

1. On the front page of the contract under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer litigation funding company;

(b) An itemization of one-time charges ~~[;]~~ and fees;

(c) The maximum total amount to be assigned by the consumer to the company, including, without limitation, the funded amount and all charges ~~[;]~~ and fees; and

(d) A payment schedule to include the funded amount , ~~[and]~~ charges ~~[,]~~ and fees, listing all dates and the amount due at the end of each 180-day period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due under the consumer litigation funding contract.

2. Within the body of the contract, substantially the following form:

Consumer's right to cancellation: You may cancel this contract without penalty or further obligation within five (5) business days after the funding date if you either:

1. ~~[Return]~~ Deliver in person to the consumer litigation funding company at the address specified in the contract the uncashed check that was issued by the consumer litigation funding company or the full amount of money that was disbursed to you by ~~[delivering the uncashed check issued by]~~ the company ; ~~[to the office of the company in person;]~~ or

2. Mail, by insured, certified or registered mail, to the consumer litigation funding company at the address specified in the contract a notice of cancellation and include in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to you ~~[in the form of the uncashed check issued]~~ by the company . ~~[or a registered or certified check or money order.]~~

3. Within the body of the contract, in substantially the following form:

The consumer litigation funding company shall not have a role in deciding whether, when and how much the legal claim is settled for. The consumer and the attorney of the consumer shall notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The company may seek updated information about the status of the legal claim. The company shall not interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof.

4. Within the body of the contract, in all capital letters and in at least a 12-point bold type or font contained within a box:

THE FUNDED AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS CONTRACT OR YOU HAVE KNOWINGLY PROVIDED FALSE

INFORMATION OR COMMITTED FRAUD AGAINST (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY).

5. Located immediately above the place on the contract where the signature of the consumer is required, in 12-point bold type or font:

Do not sign this contract before you read it completely. Do not sign this contract if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract before you sign this contract. You should obtain the advice of an attorney. Depending on the circumstances, you may wish to consult a tax, public or private benefit planning or financial professional. You acknowledge that your attorney in the legal claim has provided no tax, public or private benefit planning or financial advice regarding this transaction. You further acknowledge that your attorney has explained the terms and conditions of the consumer litigation funding contract.

6. Within the body of the contract, in substantially the following form:

A copy of the executed contract must be promptly delivered to the attorney for the consumer.

Sec. 19.3. *1. A consumer litigation funding contract must include a written disclosure, signed by the consumer that is typed in at least a 12-point font.*

2. The disclosure described in subsection 1 must be separate from the consumer litigation funding contract described in section 19 of this act.

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

(a) A summary of all applicable charges and fees;

(b) The full cost of the consumer litigation funding transaction, written in bold font;

(c) The full amount of the consumer litigation funding;

(d) A statement that the attorney retained by the consumer in the legal claim of the consumer is being retained on a contingency basis pursuant to a written fee agreement;

(e) A statement that the consumer is fully informed and aware that all proceeds of the legal claim of the consumer will be disbursed via the trust account of the retained attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer;

(f) A statement that the retained attorney has not received and will not receive a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding transaction; and

(g) An acknowledgment, signed by the consumer, that the consumer was fully informed and aware of the charges and fees and the full cost of the consumer litigation funding transaction at the time of the execution of the consumer litigation funding contract.

Sec. 19.7. *If a consumer cancels a consumer litigation funding contract pursuant to section 18 of this act, the consumer litigation funding company*

shall promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer.

Sec. 20. *1. A consumer litigation funding company shall not:*

(a) Pay or offer to pay a commission, referral fee or other form of consideration to an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person, for referring a consumer to the company.

(b) Accept a commission, referral fee or other form of consideration from an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person.

(c) Intentionally advertise materially false or misleading information regarding the products or services of the consumer litigation funding company.

(d) Refer a consumer to engage a specific attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person. A company may refer a consumer in search of legal representation to a lawyer referral service operated, sponsored or approved by the State Bar of Nevada or a local bar association.

(e) Except as otherwise provided in subsection 2, knowingly provide consumer litigation funding to a consumer who has previously assigned or sold a portion of the right of the consumer to proceeds from his or her legal claim to another company without first making payment to or purchasing the entire funded amount and charges of that company, unless a lesser amount is otherwise agreed to in writing by the consumer litigation funding companies.

(f) Receive any right to, or make, any decisions with respect to the conduct, settlement or resolution of the legal claim of a consumer.

(g) Knowingly pay or offer to pay for court costs, filing fees or attorney's fees during or after the resolution of the legal claim of a consumer using money from a consumer litigation funding transaction.

2. Two or more consumer litigation funding companies may agree to contemporaneously provide consumer litigation funding to a consumer if the consumer and the attorney of the consumer agree to the arrangement in writing.

3. An attorney or law firm retained by the consumer in connection with his or her legal claim shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

4. An attorney who has referred the consumer to his or her retained attorney or law firm shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

5. A consumer litigation funding company shall not use any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner in accordance with procedures for filing prescribed by the Commissioner.

Sec. 21. *1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date though the resolution date. The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually.*

2. The 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.

Sec. 22. *1. If a court of competent jurisdiction determines that a consumer litigation funding company has willfully committed a deceptive and abusive violation of this chapter with regard to a specific consumer litigation funding transaction, the contract shall be void.*

2. Nothing in this chapter shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform by law.

Sec. 23. *1. The contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer.*

2. Nothing in this chapter shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

3. Only a lien imposed by an attorney pursuant to NRS 18.015 that is related to the legal claim of the consumer or a lien imposed by Medicare that is related to the legal claim of a consumer takes priority over any lien imposed by a consumer litigation funding company. All other liens take priority by normal operation of law.

Sec. 24. *Any communication between the attorney of a consumer in a legal claim and a consumer litigation funding company as it pertains to a consumer litigation funding transaction is subject to the attorney-client privilege, including, without limitation, the work-product doctrine.*

Sec. 25. *1. A person shall not engage in the business of a consumer litigation funding company in this State without having first obtained a license from the Commissioner pursuant to this chapter.*

2. For the purpose of this section, a person is "engaged in the business of a consumer litigation funding company" if the person:

(a) Solicits or engages in consumer litigation funding transactions in this State; or

(b) Is located in this State and solicits or engages in consumer litigation funding transactions outside of this State.

3. Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of this section are guilty of a misdemeanor.

Sec. 25.5. *The provisions of section 25 of this act shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatever, including, but not thereby limiting the generality of the foregoing:*

1. The loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods, or things in action.

2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended.

3. Receiving or charging compensation for goods or services, whether or not sold, delivered or provided.

4. The real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

Sec. 26. *1. A person who wishes to obtain a license from the Commissioner to engage in the business of a consumer litigation funding company shall submit an application to the Commissioner. The application must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:*

(a) If the applicant is a natural person, the name and address of the applicant.

(b) If the applicant is a business entity, the name and address of each:

(1) Partner;

(2) Officer;

(3) Director;

(4) Manager or member who acts in a managerial capacity; and

(5) Registered agent,

of the business entity.

(c) Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:

(1) Partners;

(2) Officers;

(3) Directors; and

(4) Managers or members who act in a managerial capacity.

(d) The address of each location at which the applicant proposes to do business under the license.

2. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➥ *The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.*

3. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner shall not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 27. *1. In addition to any other requirements set forth in this chapter, each applicant must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(2) Has not made a false statement of material fact on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted or, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(6) If the applicant is a natural person:

(I) Is at least 21 years of age; and

(II) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(b) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry 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. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the denial or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for a license.

Sec. 28. *1. In addition to any other requirements, a natural person who applies for a license pursuant to this chapter shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Commissioner.

3. A license as a consumer litigation funding company may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 29. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is licensed as a consumer litigation funding company, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. The Commissioner shall reinstate the license of a licensee that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 30. *1. An application submitted to the Commissioner pursuant to section 26 of this act must be accompanied by:*

(a) A nonrefundable fee of not more than $1,000 for the application and survey;

(b) Any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and

(c) A fee of not less than $200 and not more than $1,000 . ~~[, prorated on the basis of the licensing year as prescribed by the Commissioner.]~~

2. An applicant shall, at the time of filing an application, file with the Commissioner, a surety bond payable to the State of Nevada and satisfactory to the Commissioner in an amount not to exceed $50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must provide that the applicant will faithfully conform to and abide by the provisions of this chapter and to all regulations lawfully made by the Commissioner under this chapter and to any such person any and all amounts of money that may become due or owing to this State or to such person from the applicant under this chapter during the period for which the bond is given.

3. Each bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services of the consumer litigation funding company.

4. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

5. The liability of the surety on a bond is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after the earlier of:

(a) The death of the licensee or the dissolution or liquidation of his or her business; or

(b) The termination of the bond.

7. A licensee or his or her surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.

8. The Commissioner shall adopt regulations establishing the amount of the fees and the bond required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account created by NRS 232.545.

Sec. 31. *1. Upon the filing of the application and the payment of the fees, the Commissioner shall investigate the facts concerning the application and the requirements provided for in this chapter.*

2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as the Commissioner may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other person as the Commissioner may see fit, at least 10 days before the date set for the hearing.

3. The Commissioner shall make his or her order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.

4. An applicant is entitled to a hearing on the question of the qualifications of the applicant for licensure upon written request to the Commissioner if:

(a) The Commissioner has notified the applicant in writing that the application has been denied; or

(b) The Commissioner has not issued a license within 60 days after the application for a license was filed.

5. A request for a hearing may not be made more than 15 days after the Commissioner has mailed a written notice to the applicant that the application has been denied and stating in substance the findings of the Commissioner supporting the denial of the application.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 32. *If the Commissioner finds:*

1. That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, within the purposes of this chapter;

2. That the applicant has complied with the provisions of this chapter; and

3. That the applicant has available for the operation of the business liquid assets of at least $50,000,

➥ he or she shall thereupon enter an order granting the application, and file his or her findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.

Sec. 33. *1. A licensee who wishes to change the address of an office or other place of business for which he or she has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.

3. If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed $1,000.

Sec. 34. *A license issued pursuant to this chapter is not transferable or assignable.*

Sec. 35. *Every licensee shall maintain assets of at least $50,000 either used or readily available for use in the conduct of the business of each licensed office.*

Sec. 35.5. *A licensee who has an office or other place of business located outside of this State shall file with the Commissioner the information required pursuant to NRS 77.310 and continuously maintain a registered agent for service of legal process. Such agent must be an attorney who is licensed to practice law in this State and who has an office located in this State.*

Sec. 36. *1. Each licensee shall keep and use in his or her business such books and accounting records as are in accord with sound and accepted accounting practices.*

2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.

3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

4. Each licensee who operates an office or other place of business outside this State that is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

Sec. 36.2. 1. At least once each year, the Commissioner or his or her authorized representative shall make an examination of the place of business of each licensee and of the transactions, books, papers and records of each licensee that pertain to the business licensed under this chapter.

2. For each examination conducted pursuant to subsection 1, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 36.4. Each licensee shall pay the assessment levied pursuant to NRS 658.055 and cooperate fully with the audits and examinations performed pursuant thereto.

Sec. 36.6. In addition to any other fee provided by this chapter, the Commissioner shall assess and collect from each licensee the reasonable cost of auditing the books and records of a licensee.

Sec. 37. *A licensee shall not conduct the business of a consumer litigation funding company under any name or at a place other than stated in the license. Nothing is this section shall be construed to prohibit:*

1. Consumer litigation funding transactions by mail; or

2. Accommodations for a consumer when necessitated by hours of employment, sickness or other emergency situations.

Sec. 38. *1. On or before January 31 of each year, a licensee shall submit a report to the Commissioner containing:*

(a) The number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year;

(b) A summation of the total funded amount of the consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year, expressed in dollars; and

(c) The annual percentage charged to each consumer when repayment was made.

2. If a licensee operated more than one office or provides consumer litigation funding to persons outside of the State, the licensee shall submit a composite report of all consumer litigation funding transactions in which the company engaged for the immediately preceding year.

3. The Commissioner shall make the information contained in the report available to the public upon request in a manner which maintains the confidentiality of the name of each company and consumer . ~~[, not later than 1 year after the report is submitted.]~~

Sec. 38.2. 1. The Commissioner may enforce this chapter and regulations adopted pursuant thereto by taking one or more of the following actions:

(a) Ordering a licensee or a director, employee or other agent of a licensee to cease and desist from any violations;

(b) Ordering a licensee or a director, employee or other agent of a licensee who has caused a violation to correct the violation, including, without limitation, making restitution of money to a person aggrieved by a violation;

(c) Imposing on a licensee or a director, employee or other agent of a licensee who has caused a violation a civil penalty not to exceed $5,000 for each violation; or

(d) Suspending or revoking the license of a licensee in accordance with section 38.6 of this act.

2. If a person violates or knowingly authorizes, directs or aids in the violation of a final order issued pursuant to paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed $10,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county in this State.

4. The Commissioner may recover the reasonable costs of enforcing subsections 1, 2 and 3, including, without limitation, attorney's fees, based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty imposed pursuant to subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator and any other factor the Commissioner considers relevant to the determination of a civil penalty.

Sec. 38.3. *1. The Commissioner may impose an administrative fine of not more than $50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.*

2. The Commissioner shall afford to any person fined pursuant to subsection 1 reasonable notice and an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. A person fined by the Commissioner pursuant to subsection 1 is entitled to judicial review of the decision of the Commissioner in the manner provided by chapter 233B of NRS.

Sec. 38.6. *1. The Commissioner may suspend or revoke a license if:*

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay an applicable tax, fee or assessment; or

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter.

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

3. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.

4. Unless otherwise provided in an order, the order for the revocation or suspension of a license applies only to the license granted to a person for the particular location for which grounds for revocation or suspension exist.

5. A licensee upon whom a fine has been imposed or whose license was suspended or revoked pursuant to this section is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

Sec. 38.8. *1. Except as otherwise provided in this section, if a licensee willfully:*

(a) Enters into a consumer litigation funding contract for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

➥ *the consumer litigation funding contract is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges ~~[of]~~ or fees with respect to the consumer litigation funding transaction.*

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

Sec. 38.9. 1. A consumer, an attorney for a consumer or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon the receipt of a complaint filed pursuant to subsection 1, the Commissioner may investigate and conduct hearings concerning the complaint.

Sec. 38.95. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;

(e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;

(g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(h) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(i) Credit union that is supervised pursuant to chapter 678 of NRS.

(j) Consumer litigation funding company that is supervised pursuant to the chapter consisting of sections 2 to 38.9, inclusive, of this act.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 39. 1. Notwithstanding the amendatory provisions of this act, a consumer litigation funding company that ~~[submits]~~ :

(a) Holds a license issued pursuant to chapter 675 of NRS on or before October 1, 2019; and

(b) Submits an application for licensure pursuant to section 26 of this act on or before January 1, 2020, ~~[or such other date as the Commissioner of Financial Institutions may prescribe by regulation,]~~

➥ shall be deemed to hold a license to engage in the business of a consumer litigation funding company issued pursuant to section 32 of this act and may continue to conduct consumer litigation funding transactions while the application for licensure is pending approval or denial.

2. The Commissioner of Financial Institutions may adopt regulations for the administration and enforcement of this section.

3. As used in this section:

(a) "Consumer litigation funding company" has the meaning ascribed to it in section 8 of this act.

(b) "Consumer litigation funding transaction" has the meaning ascribed to it in section 10 of this act.

Sec. 40. The amendatory provisions of this act do not apply to any contract entered into before July 1, 2019, until the contract is amended, extended or renewed.

Sec. 41. ~~[1. This act becomes effective on July 1, 2019.~~

~~2.]~~ Sections 28 and 29 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

~~[(a)]~~ 1. Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

~~[(b)]~~ 2. Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Amendment No. 908

SUMMARY—Revises provisions relating to certain financial transactions. (BDR 52-1146)

AN ACT relating to financial services; imposing certain requirements on certain transactions in which a person provides money to a consumer who has a pending legal action in exchange for certain proceeds from that legal action; requiring certain persons who engage in such transactions to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections ~~[2-38]~~ 2-38.9 of this bill establish provisions relating to transactions in which a person provides a consumer who has a pending legal claim in this State with money and the consumer assigns to that person the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained as a result of the legal action of the consumer. Section 10 of this bill designates this type of transaction as a "consumer litigation funding transaction." Section 8 of this bill designates the provider of money to a consumer in such a transaction as a "consumer litigation funding company."

Sections 18, 19 and 19.3 of this bill generally require a contract to enter into a consumer litigation funding transaction to meet certain requirements and contain certain disclosures relating to the amount of fees the consumer will be charged and the rights of the consumer with regard to the consumer litigation funding transaction.

Section 20 of this bill prohibits a consumer litigation funding company from: (1) paying or accepting certain referral fees or commissions; (2) referring a consumer to engage certain professionals; (3) advertising false information; (4) entering into a consumer litigation funding transaction with a consumer who has already received money from another company, with certain exceptions; (5) making decisions with regard to the legal claim of the consumer; and (6) paying certain legal fees of the consumer with money from the consumer funding transaction.

Section 21 of this bill requires the amount the consumer is required to pay the consumer litigation funding company in exchange for the money received by the consumer to be set as a predetermined amount. Section 21 prohibits a company from charging fees that exceed a rate of 40 percent annually.

Section 25 of this bill prohibits a person from engaging in business as a consumer litigation funding company without a license issued by the Commissioner of Financial Institutions. Section 25 provides that a person who engages in such business without a license is guilty of a misdemeanor. Sections 26-32 of this bill set forth the application process to obtain such a license and set forth certain requirements an applicant must meet.

Sections 35 and 36 of this bill require a person who has obtained a license to engage in business as a consumer litigation funding company to maintain assets of at least $50,000 and to keep certain records. Section 36.2 of this bill requires the Commissioner to make an annual examination of a licensee. Sections 38.3 and 38.6 of this bill authorize the Commissioner to impose fines and suspend or revoke the license of a licensee for certain violations of the provisions of this bill. Section 38.2 of this bill authorizes the Commissioner to take certain additional actions against a licensee or certain other persons for violations of the provisions of this bill. Section 38 of this bill requires each licensee to submit to the Commissioner an annual report with certain information regarding the activities of the licensee in the preceding year and to make the information contained in the report available to the public not later than 1 year after the report is submitted. Section 38.9 of this bill authorizes: (1) a person to file a complaint against a licensee; and (2) the Commissioner to investigate and hold hearings concerning such a complaint. Sections 36.4, 36.6 and 38.95 of this bill require a licensee to pay certain assessments.

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to ~~[38,]~~ *38.9*, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advertise" means the commercial use of any medium, including, without limitation, radio, television, the Internet or a similar medium of communication, by a consumer litigation funding company for the purpose of inducing a consumer to enter into a consumer litigation funding transaction.*

Sec. 3.5. *"Applicant" means a person who applies to the Commissioner to obtain a license to engage in the business of a consumer litigation funding company pursuant to the provisions of this chapter. The term does not include a parent company or affiliate of such a person.*

Sec. 4. *"Charges" means the amount of money to be paid to a consumer litigation funding company by a consumer above the funded amount provided by the consumer litigation company to the consumer. The term includes, without limitation, administrative fees, origination fees, underwriting fees or other fees, however denominated. The term does not include a document preparation fee.*

Sec. 5. *"Commissioner" means the Commissioner of Financial Institutions.*

Sec. 6. *"Consumer" means a natural person who:*

1. Resides or is domiciled in this State; and

2. Has a pending legal claim.

Sec. 7. *"Consumer litigation funding" means the money provided directly or indirectly to a consumer by a consumer litigation funding company in a consumer litigation funding transaction.*

Sec. 8. *1. "Consumer litigation funding company" or "company" means a person that enters into a consumer litigation funding transaction with a consumer.*

2. The term does not include:

(a) An immediate family member of a consumer;

(b) An attorney or accountant who provides services to a consumer; ~~[or]~~

(c) A medical provider that provides medical services on the basis of a lien against any potential litigation recovery;

(d) A medical factoring company; or

(e) A financial institution or similar entity:

(1) That provides financing to a consumer litigation funding company; or

(2) To which a consumer litigation funding company grants a security interest or transfers any right or interest in a consumer litigation funding transaction.

Sec. 9. *"Consumer litigation funding contract" means a written agreement between a consumer and a consumer litigation funding company that provides for a consumer litigation funding transaction.*

Sec. 10. *"Consumer litigation funding transaction" means a nonrecourse transaction in which:*

1. A consumer litigation funding company provides consumer litigation funding to a consumer; and

2. The consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the legal claim of the consumer.

Sec. 10.5. "Document preparation fee" means a one-time fee per legal claim, not to exceed $500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.

Sec. 11. *"Funded amount" means the amount of consumer litigation funding provided to or on behalf of a consumer in a consumer litigation funding transaction. The term does not include charges.*

Sec. 12. *"Funding date" means the date on which a company transfers to a consumer the funded amount of consumer litigation funding.*

Sec. 13. *"Immediate family member" means a parent, sibling, child by blood, adoption or marriage, spouse, grandparent or grandchild.*

Sec. 14. *"Legal claim" means a bona fide civil claim or cause of action.*

Sec. 15. *"Licensee" means a person who has been issued one or more licenses to engage in the business of a consumer litigation funding company.*

Sec. 16. *"Resolution date" means the date upon which:*

(a) A consumer, or a person on behalf of a consumer, delivers to a consumer litigation company an amount of money equivalent to the funded amount plus any agreed upon charges; or

(b) The legal claim of a consumer is lost or abandoned.

Sec. 17. ~~*[1.]*~~ *The Commissioner may adopt regulations* ~~*[and make orders]*~~ *for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter.*

~~*[2. Any ruling, demand, requirement or similar administrative act may be promulgated by an order.*~~

~~*3. Every order must be in writing, must state its effective date and the date of its promulgation, and must be entered in an indexed permanent book which is a public record.*~~

~~*4. A copy of every order containing a requirement of general application must be mailed to each licensee at least 20 days before the effective date thereof.]*~~

Sec. 18. *1. A consumer litigation funding contract must:*

(a) Be written in a clear and comprehensible language that is understandable to an ordinary layperson.

(b) Be filled out completely when presented to the consumer for signature.

(c) Contain a provision ~~*[entitling]*~~ *advising a consumer* ~~*[to]*~~ *of the right* ~~*[of rescission.]*~~ *to cancel the contract. Such a provision must provide that the consumer may cancel the contract without penalty or further obligation if, within 5 business days after the funding date, the consumer:*

(1) ~~*[Returns]*~~ *Delivers in person to the consumer litigation funding company , at the address specified in the contract, the uncashed check issued by the consumer litigation funding company or the full amount of money that*

was disbursed to the consumer by the consumer litigation funding company ; ~~[by delivering to the office of the company in person the uncashed check issued by the company;]~~ or

(2) Mails, by insured, certified or registered mail, to the address specified in the contract, a notice of cancellation and includes in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to the consumer by the consumer litigation funding company . ~~[in the form of the uncashed check issued by the company or a registered or certified check or money order.]~~

(d) Contain the initials of the consumer on each page.

(e) Contain a statement that the consumer is not required to pay any other fees or charges other than what is agreed to and disclosed within the contract.

(f) If the consumer seeks more than one consumer litigation funding contract with the same company, contain a disclosure providing the cumulative amount due from the consumer for all consumer litigation funding transactions, including, without limitation, all fees and charges under all consumer litigation funding contracts if repayment is made any time after the contracts are executed.

(g) Contain a statement of the maximum amount the consumer may be obligated to pay under the consumer litigation funding contract other than in the case of material breach, fraud or misrepresentation by the consumer.

(h) Contain clear , ~~[and]~~ conspicuous and accurate details of how charges, including, without limitation, any applicable fees, are incurred or accrued.

(i) Contain a statement that the consumer litigation funding contract is governed by the laws of the State of Nevada.

2. A consumer litigation contract must contain a written acknowledgment by the attorney retained by the consumer in the legal claim of the consumer attesting to the following:

(a) To the best of the knowledge of the attorney, the funded amount and any charges and applicable fees relating to the consumer litigation funding have been disclosed to the consumer.

(b) The attorney is being paid on a contingency basis pursuant to a written fee agreement.

(c) All proceeds of the legal claim will be disbursed via the trust account of the attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer.

(d) The attorney is following the written irrevocable instructions of the consumer with regard to the consumer litigation funding transaction.

(e) The attorney is obligated to disburse money from the legal claim and take any other steps to ensure that the terms of the consumer litigation funding contract are fulfilled.

(f) The attorney has not received a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding, nor will the attorney receive such fee or other consideration in the future.

(g) The attorney has not provided ~~[no]~~ advice related to taxes, benefits or any other financial matter regarding this transaction.

3. A consumer litigation funding contract that does not contain the written acknowledgment required by paragraph (c) of subsection 2 is void. If the acknowledgment is completed, the contract shall remain valid if the consumer terminates the representation of the initial attorney or retains a new attorney with respect to the legal claim of the consumer.

Sec. 19. *A consumer litigation funding contract must contain the disclosures specified in this section, which shall constitute material terms of the contract. Except as otherwise provided in this section, the disclosure shall be typed in at least 12-point bold type or font and be placed clearly and conspicuously within the contract, as follows:*

1. On the front page of the contract under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer litigation funding company;

(b) An itemization of one-time charges ~~[;]~~ and fees;

(c) The maximum total amount to be assigned by the consumer to the company, including, without limitation, the funded amount and all charges ~~[;]~~ and fees; and

(d) A payment schedule to include the funded amount , ~~[and]~~ charges ~~[,]~~ and fees, listing all dates and the amount due at the end of each 180-day period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due under the consumer litigation funding contract.

2. Within the body of the contract, substantially the following form:

Consumer's right to cancellation: You may cancel this contract without penalty or further obligation within five (5) business days after the funding date if you either:

1. ~~[Return]~~ Deliver in person to the consumer litigation funding company at the address specified in the contract the uncashed check that was issued by the consumer litigation funding company or the full amount of money that was disbursed to you by ~~[delivering the uncashed check issued by]~~ the company ; ~~[to the office of the company in person;]~~ or

2. Mail, by insured, certified or registered mail, to the consumer litigation funding company at the address specified in the contract a notice of cancellation and include in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to you ~~[in the form of the uncashed check issued]~~ by the company . ~~[or a registered or certified check or money order.]~~

3. Within the body of the contract, in substantially the following form:

The consumer litigation funding company shall not have a role in deciding whether, when and how much the legal claim is settled for. The consumer and the attorney of the consumer shall notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The

company may seek updated information about the status of the legal claim. The company shall not interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof.

4. Within the body of the contract, in all capital letters and in at least a 12-point bold type or font contained within a box:

THE FUNDED AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS CONTRACT OR YOU HAVE KNOWINGLY PROVIDED FALSE INFORMATION OR COMMITTED FRAUD AGAINST (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY).

5. Located immediately above the place on the contract where the signature of the consumer is required, in 12-point bold type or font:

Do not sign this contract before you read it completely. Do not sign this contract if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract before you sign this contract. You should obtain the advice of an attorney. Depending on the circumstances, you may wish to consult a tax, public or private benefit planning or financial professional. You acknowledge that your attorney in the legal claim has provided no tax, public or private benefit planning or financial advice regarding this transaction. You further acknowledge that your attorney has explained the terms and conditions of the consumer litigation funding contract.

6. Within the body of the contract, in substantially the following form:

A copy of the executed contract must be promptly delivered to the attorney for the consumer.

Sec. 19.3. *1. A consumer litigation funding contract must include a written disclosure, signed by the consumer that is typed in at least a 12-point font.*

2. The disclosure described in subsection 1 must be separate from the consumer litigation funding contract described in section 19 of this act.

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

(a) A summary of all applicable charges and fees;

(b) The full cost of the consumer litigation funding transaction, written in bold font;

(c) The full amount of the consumer litigation funding;

(d) A statement that the attorney retained by the consumer in the legal claim of the consumer is being retained on a contingency basis pursuant to a written fee agreement;

(e) A statement that the consumer is fully informed and aware that all proceeds of the legal claim of the consumer will be disbursed via the trust

account of the retained attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer;

(f) A statement that the retained attorney has not received and will not receive a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding transaction; and

(g) An acknowledgment, signed by the consumer, that the consumer was fully informed and aware of the charges and fees and the full cost of the consumer litigation funding transaction at the time of the execution of the consumer litigation funding contract.

Sec. 19.7. *If a consumer cancels a consumer litigation funding contract pursuant to section 18 of this act, the consumer litigation funding company shall promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer.*

Sec. 20. *1. A consumer litigation funding company shall not:*

(a) Pay or offer to pay a commission, referral fee or other form of consideration to an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person, for referring a consumer to the company.

(b) Accept a commission, referral fee or other form of consideration from an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person.

(c) Intentionally advertise materially false or misleading information regarding the products or services of the consumer litigation funding company.

(d) Refer a consumer to engage a specific attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person. A company may refer a consumer in search of legal representation to a lawyer referral service operated, sponsored or approved by the State Bar of Nevada or a local bar association.

(e) Except as otherwise provided in subsection 2, knowingly provide consumer litigation funding to a consumer who has previously assigned or sold a portion of the right of the consumer to proceeds from his or her legal claim to another company without first making payment to or purchasing the entire funded amount and charges of that company, unless a lesser amount is otherwise agreed to in writing by the consumer litigation funding companies.

(f) Receive any right to, or make, any decisions with respect to the conduct, settlement or resolution of the legal claim of a consumer.

(g) Knowingly pay or offer to pay for court costs, filing fees or attorney's fees during or after the resolution of the legal claim of a consumer using money from a consumer litigation funding transaction.

2. Two or more consumer litigation funding companies may agree to contemporaneously provide consumer litigation funding to a consumer if the consumer and the attorney of the consumer agree to the arrangement in writing.

3. An attorney or law firm retained by the consumer in connection with his or her legal claim shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

4. An attorney who has referred the consumer to his or her retained attorney or law firm shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

5. A consumer litigation funding company shall not use any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner in accordance with procedures for filing prescribed by the Commissioner.

Sec. 21. *1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date though the resolution date. The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually.*

2. The 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.

Sec. 22. *1. If a court of competent jurisdiction determines that a consumer litigation funding company has willfully committed a deceptive and abusive violation of this chapter with regard to a specific consumer litigation funding transaction, the contract shall be void.*

2. Nothing in this chapter shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform by law.

Sec. 23. *1. The contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer.*

2. Nothing in this chapter shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

3. Only a lien imposed by an attorney pursuant to NRS 18.015 that is related to the legal claim of the consumer or a lien imposed by Medicare that is related to the legal claim of a consumer takes priority over any lien imposed by a consumer litigation funding company. All other liens take priority by normal operation of law.

Sec. 24. *Any communication between the attorney of a consumer in a legal claim and a consumer litigation funding company as it pertains to a consumer litigation funding transaction is subject to the attorney-client privilege, including, without limitation, the work-product doctrine.*

Sec. 25. *1. A person shall not engage in the business of a consumer litigation funding company in this State without having first obtained a license from the Commissioner pursuant to this chapter.*

2. For the purpose of this section, a person is "engaged in the business of a consumer litigation funding company" if the person:

(a) Solicits or engages in consumer litigation funding transactions in this State; or

(b) Is located in this State and solicits or engages in consumer litigation funding transactions outside of this State.

3. Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of this section are guilty of a misdemeanor.

Sec. 25.5. *The provisions of section 25 of this act shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatever, including, but not thereby limiting the generality of the foregoing:*

1. The loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods, or things in action.

2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended.

3. Receiving or charging compensation for goods or services, whether or not sold, delivered or provided.

4. The real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

Sec. 26. *1. A person who wishes to obtain a license from the Commissioner to engage in the business of a consumer litigation funding company shall submit an application to the Commissioner. The application must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:*

(a) If the applicant is a natural person, the name and address of the applicant.

(b) If the applicant is a business entity, the name and address of each:

(1) Partner;

(2) Officer;

(3) Director;

(4) Manager or member who acts in a managerial capacity; and

(5) Registered agent,

➥ of the business entity.

(c) Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:

(1) Partners;

(2) Officers;

(3) Directors; and

(4) Managers or members who act in a managerial capacity.

(d) The address of each location at which the applicant proposes to do business under the license.

2. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➥ *The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.*

3. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner shall not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 27. *1. In addition to any other requirements set forth in this chapter, each applicant must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(2) Has not made a false statement of material fact on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted or, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(6) If the applicant is a natural person:

(I) Is at least 21 years of age; and

(II) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(b) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry 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. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the denial or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for a license.

Sec. 28. *1. In addition to any other requirements, a natural person who applies for a license pursuant to this chapter shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Commissioner.

3. A license as a consumer litigation funding company may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 29. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a*

person who is licensed as a consumer litigation funding company, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate the license of a licensee that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 30. *1. An application submitted to the Commissioner pursuant to section 26 of this act must be accompanied by:*

(a) A nonrefundable fee of not more than $1,000 for the application and survey;

(b) Any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and

(c) A fee of not less than $200 and not more than $1,000 . ~~[, prorated on the basis of the licensing year as prescribed by the Commissioner.]~~

2. An applicant shall, at the time of filing an application, file with the Commissioner, a surety bond payable to the State of Nevada and satisfactory to the Commissioner in an amount not to exceed $50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must provide that the applicant will faithfully conform to and abide by the provisions of this chapter and to all regulations lawfully made by the Commissioner under this chapter and to any such person any and all amounts of money that may become due or owing to this State or to such person from the applicant under this chapter during the period for which the bond is given.

3. Each bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services of the consumer litigation funding company.

4. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

5. The liability of the surety on a bond is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after the earlier of:

(a) The death of the licensee or the dissolution or liquidation of his or her business; or

(b) The termination of the bond.

7. A licensee or his or her surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.

8. The Commissioner shall adopt regulations establishing the amount of the fees and the bond required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account created by NRS 232.545.

Sec. 31. *1. Upon the filing of the application and the payment of the fees, the Commissioner shall investigate the facts concerning the application and the requirements provided for in this chapter.*

2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as the Commissioner may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other person as the Commissioner may see fit, at least 10 days before the date set for the hearing.

3. The Commissioner shall make his or her order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.

4. An applicant is entitled to a hearing on the question of the qualifications of the applicant for licensure upon written request to the Commissioner if:

(a) The Commissioner has notified the applicant in writing that the application has been denied; or

(b) The Commissioner has not issued a license within 60 days after the application for a license was filed.

5. A request for a hearing may not be made more than 15 days after the Commissioner has mailed a written notice to the applicant that the application has been denied and stating in substance the findings of the Commissioner supporting the denial of the application.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 32. *If the Commissioner finds:*

1. That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, within the purposes of this chapter;

2. That the applicant has complied with the provisions of this chapter; and

3. That the applicant has available for the operation of the business liquid assets of at least $50,000,

➥ *he or she shall thereupon enter an order granting the application, and file his or her findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.*

Sec. 33. *1. A licensee who wishes to change the address of an office or other place of business for which he or she has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.

3. If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed $1,000.

Sec. 34. *A license issued pursuant to this chapter is not transferable or assignable.*

Sec. 35. *Every licensee shall maintain assets of at least $50,000 either used or readily available for use in the conduct of the business of each licensed office.*

Sec. 35.5. *A licensee who has an office or other place of business located outside of this State shall file with the Commissioner the information required pursuant to NRS 77.310 and continuously maintain a registered agent for service of legal process. Such agent must be an attorney who is licensed to practice law in this State and who has an office located in this State.*

Sec. 36. *1. Each licensee shall keep and use in his or her business such books and accounting records as are in accord with sound and accepted accounting practices.*

2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.

3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

4. Each licensee who operates an office or other place of business outside this State that is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

Sec. 36.2. *1. At least once each year, the Commissioner or his or her authorized representative shall make an examination of the place of business of each licensee and of the transactions, books, papers and records of each licensee that pertain to the business licensed under this chapter.*

2. For each examination conducted pursuant to subsection 1, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 36.4. *Each licensee shall pay the assessment levied pursuant to NRS 658.055 and cooperate fully with the audits and examinations performed pursuant thereto.*

Sec. 36.6. *In addition to any other fee provided by this chapter, the Commissioner shall assess and collect from each licensee the reasonable cost of auditing the books and records of a licensee.*

Sec. 37. *A licensee shall not conduct the business of a consumer litigation funding company under any name or at a place other than stated in the license. Nothing is this section shall be construed to prohibit:*

1. Consumer litigation funding transactions by mail; or

2. Accommodations for a consumer when necessitated by hours of employment, sickness or other emergency situations.

Sec. 38. *1. On or before January 31 of each year, a licensee shall submit a report to the Commissioner containing:*

(a) The number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year;

(b) A summation of the total funded amount of the consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year, expressed in dollars; and

(c) The annual percentage charged to each consumer when repayment was made.

2. If a licensee operated more than one office or provides consumer litigation funding to persons outside of the State, the licensee shall submit a composite report of all consumer litigation funding transactions in which the company engaged for the immediately preceding year.

3. The Commissioner shall make the information contained in the report available to the public *upon request* *in a manner which maintains the confidentiality of the name of each company and consumer* *. ~~[, not later than 1 year after the report is submitted.]~~*

Sec. 38.2. *1. The Commissioner may enforce this chapter and regulations adopted pursuant thereto by taking one or more of the following actions:*

(a) Ordering a licensee or a director, employee or other agent of a licensee to cease and desist from any violations;

(b) Ordering a licensee or a director, employee or other agent of a licensee who has caused a violation to correct the violation, including, without limitation, making restitution of money to a person aggrieved by a violation;

(c) Imposing on a licensee or a director, employee or other agent of a licensee who has caused a violation a civil penalty not to exceed $5,000 for each violation; or

(d) Suspending or revoking the license of a licensee in accordance with section 38.6 of this act.

2. If a person violates or knowingly authorizes, directs or aids in the violation of a final order issued pursuant to paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed $10,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county in this State.

4. The Commissioner may recover the reasonable costs of enforcing subsections 1, 2 and 3, including, without limitation, attorney's fees, based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty imposed pursuant to subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator and any other factor the Commissioner considers relevant to the determination of a civil penalty.

Sec. 38.3. *1. The Commissioner may impose an administrative fine of not more than $50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.*

2. The Commissioner shall afford to any person fined pursuant to subsection 1 reasonable notice and an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. A person fined by the Commissioner pursuant to subsection 1 is entitled to judicial review of the decision of the Commissioner in the manner provided by chapter 233B of NRS.

Sec. 38.6. *1. The Commissioner may suspend or revoke a license if:*

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay an applicable tax, fee or assessment; or

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter.

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

3. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.

4. Unless otherwise provided in an order, the order for the revocation or suspension of a license applies only to the license granted to a person for the particular location for which grounds for revocation or suspension exist.

5. A licensee upon whom a fine has been imposed or whose license was suspended or revoked pursuant to this section is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

Sec. 38.8. *1. Except as otherwise provided in this section, if a licensee willfully:*

(a) Enters into a consumer litigation funding contract for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

➥ *the consumer litigation funding contract is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges ~~[of]~~ or fees with respect to the consumer litigation funding transaction.*

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

Sec. 38.9. 1. A consumer, an attorney for a consumer or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon the receipt of a complaint filed pursuant to subsection 1, the Commissioner may investigate and conduct hearings concerning the complaint.

Sec. 38.95. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;

(e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;

(g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(h) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(i) Credit union that is supervised pursuant to chapter 678 of NRS.

(j) Consumer litigation funding company that is supervised pursuant to the chapter consisting of sections 2 to 38.9, inclusive, of this act.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments

as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 39. 1. Notwithstanding the amendatory provisions of this act, a consumer litigation funding company that ~~[submits]~~ :

(a) Holds a license issued pursuant to chapter 675 of NRS on or before October 1, 2019; and

(b) Submits an application for licensure pursuant to section 26 of this act on or before January 1, 2020, ~~[or such other date as the Commissioner of Financial Institutions may prescribe by regulation,]~~

➥ shall be deemed to hold a license to engage in the business of a consumer litigation funding company issued pursuant to section 32 of this act and may continue to conduct consumer litigation funding transactions while the application for licensure is pending approval or denial.

2. The Commissioner of Financial Institutions may adopt regulations for the administration and enforcement of this section.

3. As used in this section:

(a) "Consumer litigation funding company" has the meaning ascribed to it in section 8 of this act.

(b) "Consumer litigation funding transaction" has the meaning ascribed to it in section 10 of this act.

Sec. 40. The amendatory provisions of this act do not apply to any contract entered into before July 1, 2019, until the contract is amended, extended or renewed.

Sec. 41. ~~[1. This act becomes effective on July 1, 2019.~~

~~2.]~~ Sections 28 and 29 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

~~[(a)]~~ 1. Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

~~[(b)]~~ 2. Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Amendment No. 926

SUMMARY—Revises provisions relating to certain financial transactions. (BDR 52-1146)

AN ACT relating to financial services; imposing certain requirements on certain transactions in which a person provides money to a consumer who has

a pending legal action in exchange for certain proceeds from that legal action; requiring certain persons who engage in such transactions to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-38.9 of this bill establish provisions relating to transactions in which a person provides a consumer who has a pending legal claim in this State with money and the consumer assigns to that person the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained as a result of the legal action of the consumer. Section 10 of this bill designates this type of transaction as a "consumer litigation funding transaction." Section 8 of this bill designates the provider of money to a consumer in such a transaction as a "consumer litigation funding company."

Sections 18, 19 and 19.3 of this bill generally require a contract to enter into a consumer litigation funding transaction to meet certain requirements and contain certain disclosures relating to the amount of fees the consumer will be charged and the rights of the consumer with regard to the consumer litigation funding transaction.

Section 20 of this bill prohibits a consumer litigation funding company from: (1) paying or accepting certain referral fees or commissions; (2) referring a consumer to engage certain professionals; (3) advertising false information; (4) entering into a consumer litigation funding transaction with a consumer who has already received money from another company, with certain exceptions; (5) making decisions with regard to the legal claim of the consumer; and (6) paying certain legal fees of the consumer with money from the consumer funding transaction.

Section 21 of this bill requires the amount the consumer is required to pay the consumer litigation funding company in exchange for the money received by the consumer to be set as a predetermined amount. Section 21 prohibits a company from charging fees that exceed a rate of 40 percent annually.

Section 25 of this bill prohibits a person from engaging in business as a consumer litigation funding company without a license issued by the Commissioner of Financial Institutions. Section 25 provides that a person who engages in such business without a license is guilty of a misdemeanor. Sections 26-32 of this bill set forth the application process to obtain such a license and set forth certain requirements an applicant must meet.

Sections 35 and 36 of this bill require a person who has obtained a license to engage in business as a consumer litigation funding company to maintain assets of at least $50,000 and to keep certain records. Section 36.2 of this bill requires the Commissioner to make an annual examination of a licensee. Sections 38.3 and 38.6 of this bill authorize the Commissioner to impose fines and suspend or revoke the license of a licensee for certain violations of the provisions of this bill. Section 38.2 of this bill authorizes the Commissioner to take certain additional actions against a licensee or certain other persons for

violations of the provisions of this bill. Section 38 of this bill requires each licensee to submit to the Commissioner an annual report with certain information regarding the activities of the licensee in the preceding year and to make the information contained in the report available to the public not later than 1 year after the report is submitted. Section 38.9 of this bill authorizes: (1) a person to file a complaint against a licensee; and (2) the Commissioner to investigate and hold hearings concerning such a complaint. Sections 36.4, 36.6 and 38.95 of this bill require a licensee to pay certain assessments.

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 38.9, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Advertise" means the commercial use of any medium, including, without limitation, radio, television, the Internet or a similar medium of communication, by a consumer litigation funding company for the purpose of inducing a consumer to enter into a consumer litigation funding transaction.*

Sec. 3.5. *"Applicant" means a person who applies to the Commissioner to obtain a license to engage in the business of a consumer litigation funding company pursuant to the provisions of this chapter. The term does not include a parent company or affiliate of such a person.*

Sec. 4. *"Charges" means the amount of money to be paid to a consumer litigation funding company by a consumer above the funded amount provided by the consumer litigation company to the consumer. The term includes, without limitation, administrative fees, origination fees, underwriting fees or other fees, however denominated. The term does not include a document preparation fee.*

Sec. 5. *"Commissioner" means the Commissioner of Financial Institutions.*

Sec. 6. *"Consumer" means a natural person who:*

1. Resides or is domiciled in this State; and

2. Has a pending legal claim.

Sec. 7. *"Consumer litigation funding" means the money provided directly or indirectly to a consumer by a consumer litigation funding company in a consumer litigation funding transaction.*

Sec. 8. *1. "Consumer litigation funding company" or "company" means a person that enters into a consumer litigation funding transaction with a consumer.*

2. The term does not include:

(a) An immediate family member of a consumer;

(b) An attorney or accountant who provides services to a consumer;

(c) A medical provider that provides medical services on the basis of a lien against any potential litigation recovery;

(d) A medical factoring company; or

(e) A financial institution or similar entity:

(1) That provides financing to a consumer litigation funding company; or

(2) To which a consumer litigation funding company grants a security interest or transfers any right or interest in a consumer litigation funding transaction.

Sec. 9. *"Consumer litigation funding contract" means a written agreement between a consumer and a consumer litigation funding company that provides for a consumer litigation funding transaction.*

Sec. 10. *"Consumer litigation funding transaction" means a nonrecourse transaction in which:*

1. A consumer litigation funding company provides consumer litigation funding to a consumer; and

2. The consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the legal claim of the consumer.

Sec. 10.5. *"Document preparation fee" means a one-time fee per legal claim, not to exceed $500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.*

Sec. 11. *"Funded amount" means the amount of consumer litigation funding provided to or on behalf of a consumer in a consumer litigation funding transaction. The term does not include charges.*

Sec. 12. *"Funding date" means the date on which a company transfers to a consumer the funded amount of consumer litigation funding.*

Sec. 13. *"Immediate family member" means a parent, sibling, child by blood, adoption or marriage, spouse, grandparent or grandchild.*

Sec. 14. *"Legal claim" means a bona fide civil claim or cause of action.*

Sec. 15. *"Licensee" means a person who has been issued one or more licenses to engage in the business of a consumer litigation funding company.*

Sec. 16. *"Resolution date" means the date upon which:*

(a) A consumer, or a person on behalf of a consumer, delivers to a consumer litigation company an amount of money equivalent to the funded amount plus any agreed upon charges; or

(b) The legal claim of a consumer is lost or abandoned.

Sec. 17. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter.*

Sec. 18. *1. A consumer litigation funding contract must:*

(a) Be written in a clear and comprehensible language that is understandable to an ordinary layperson.

(b) Be filled out completely when presented to the consumer for signature.

(c) Contain a provision advising a consumer of the right to cancel the contract. Such a provision must provide that the consumer may cancel the

contract without penalty or further obligation if, within 5 business days after the funding date, the consumer:

(1) Delivers in person to the consumer litigation funding company, at the address specified in the contract, the uncashed check issued by the consumer litigation funding company or the full amount of money that was disbursed to the consumer by the consumer litigation funding company; or

(2) Mails, by insured, certified or registered mail, to the address specified in the contract, a notice of cancellation and includes in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to the consumer by the consumer litigation funding company.

(d) Contain the initials of the consumer on each page.

(e) Contain a statement that the consumer is not required to pay any other fees or charges other than what is agreed to and disclosed within the contract.

(f) If the consumer seeks more than one consumer litigation funding contract with the same company, contain a disclosure providing the cumulative amount due from the consumer for all consumer litigation funding transactions, including, without limitation, all fees and charges under all consumer litigation funding contracts if repayment is made any time after the contracts are executed.

(g) Contain a statement of the maximum amount the consumer may be obligated to pay under the consumer litigation funding contract other than in the case of material breach, fraud or misrepresentation by the consumer.

(h) Contain clear, conspicuous and accurate details of how charges, including, without limitation, any applicable fees, are incurred or accrued.

(i) Contain a statement that the consumer litigation funding contract is governed by the laws of the State of Nevada.

2. A consumer litigation contract must contain a written acknowledgment by the attorney retained by the consumer in the legal claim of the consumer attesting to the following:

(a) To the best of the knowledge of the attorney, the funded amount and any charges and applicable fees relating to the consumer litigation funding have been disclosed to the consumer.

(b) The attorney is being paid on a contingency basis pursuant to a written fee agreement.

(c) All proceeds of the legal claim will be disbursed via the trust account of the attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer.

(d) The attorney is following the written irrevocable instructions of the consumer with regard to the consumer litigation funding transaction.

(e) The attorney is obligated to disburse money from the legal claim and take any other steps to ensure that the terms of the consumer litigation funding contract are fulfilled.

(f) The attorney has not received a referral fee or other consideration from the consumer litigation funding company in connection with the consumer

litigation funding, nor will the attorney receive such fee or other consideration in the future.

(g) The attorney has not provided advice related to taxes, benefits or any other financial matter regarding this transaction.

3. A consumer litigation funding contract that does not contain the written acknowledgment required by paragraph (c) of subsection 2 is void. If the acknowledgment is completed, the contract shall remain valid if the consumer terminates the representation of the initial attorney or retains a new attorney with respect to the legal claim of the consumer.

Sec. 19. *A consumer litigation funding contract must contain the disclosures specified in this section, which shall constitute material terms of the contract. Except as otherwise provided in this section, the disclosure shall be typed in at least 12-point bold type or font and be placed clearly and conspicuously within the contract, as follows:*

1. On the front page of the contract under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer litigation funding company;

(b) An itemization of one-time charges and fees;

(c) The maximum total amount to be assigned by the consumer to the company, including, without limitation, the funded amount and all charges and fees; and

(d) A payment schedule to include the funded amount, charges and fees, listing all dates and the amount due at the end of each 180-day period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due under the consumer litigation funding contract.

2. Within the body of the contract, substantially the following form:

Consumer's right to cancellation: You may cancel this contract without penalty or further obligation within five (5) business days after the funding date if you either:

1. Deliver in person to the consumer litigation funding company at the address specified in the contract the uncashed check that was issued by the consumer litigation funding company or the full amount of money that was disbursed to you by the company; or

2. Mail, by insured, certified or registered mail, to the consumer litigation funding company at the address specified in the contract a notice of cancellation and include in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to you by the company.

3. Within the body of the contract, in substantially the following form:

The consumer litigation funding company shall not have a role in deciding whether, when and how much the legal claim is settled for. The consumer and the attorney of the consumer shall notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The

company may seek updated information about the status of the legal claim. The company shall not interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof.

4. Within the body of the contract, in all capital letters and in at least a 12-point bold type or font contained within a box:

THE FUNDED AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS CONTRACT OR YOU HAVE KNOWINGLY PROVIDED FALSE INFORMATION OR COMMITTED FRAUD AGAINST (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY).

5. Located immediately above the place on the contract where the signature of the consumer is required, in 12-point bold type or font:

Do not sign this contract before you read it completely. Do not sign this contract if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract before you sign this contract. You should obtain the advice of an attorney. Depending on the circumstances, you may wish to consult a tax, public or private benefit planning or financial professional. You acknowledge that your attorney in the legal claim has provided no tax, public or private benefit planning or financial advice regarding this transaction. You further acknowledge that your attorney has explained the terms and conditions of the consumer litigation funding contract.

6. Within the body of the contract, in substantially the following form:

A copy of the executed contract must be promptly delivered to the attorney for the consumer.

Sec. 19.3. *1. A consumer litigation funding contract must include a written disclosure, signed by the consumer that is typed in at least a 12-point font.*

2. The disclosure described in subsection 1 must be separate from the consumer litigation funding contract described in section 19 of this act.

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

(a) A summary of all applicable charges and fees;

(b) The full cost of the consumer litigation funding transaction, written in bold font;

(c) The full amount of the consumer litigation funding;

(d) A statement that the attorney retained by the consumer in the legal claim of the consumer is being retained on a contingency basis pursuant to a written fee agreement;

(e) A statement that the consumer is fully informed and aware that all proceeds of the legal claim of the consumer will be disbursed via the trust

account of the retained attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer;

(f) A statement that the retained attorney has not received and will not receive a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding transaction; and

(g) An acknowledgment, signed by the consumer, that the consumer was fully informed and aware of the charges and fees and the full cost of the consumer litigation funding transaction at the time of the execution of the consumer litigation funding contract.

Sec. 19.7. *If a consumer cancels a consumer litigation funding contract pursuant to section 18 of this act, the consumer litigation funding company shall promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer.*

Sec. 20. *1. A consumer litigation funding company shall not:*

(a) Pay or offer to pay a commission, referral fee or other form of consideration to an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person, for referring a consumer to the company.

(b) Accept a commission, referral fee or other form of consideration from an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person.

(c) Intentionally advertise materially false or misleading information regarding the products or services of the consumer litigation funding company.

(d) Refer a consumer to engage a specific attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person. A company may refer a consumer in search of legal representation to a lawyer referral service operated, sponsored or approved by the State Bar of Nevada or a local bar association.

(e) Except as otherwise provided in subsection 2, knowingly provide consumer litigation funding to a consumer who has previously assigned or sold a portion of the right of the consumer to proceeds from his or her legal claim to another company without first making payment to or purchasing the entire funded amount and charges of that company, unless a lesser amount is otherwise agreed to in writing by the consumer litigation funding companies.

(f) Receive any right to, or make, any decisions with respect to the conduct, settlement or resolution of the legal claim of a consumer.

(g) Knowingly pay or offer to pay for court costs, filing fees or attorney's fees during or after the resolution of the legal claim of a consumer using money from a consumer litigation funding transaction.

2. Two or more consumer litigation funding companies may agree to contemporaneously provide consumer litigation funding to a consumer if the consumer and the attorney of the consumer agree to the arrangement in writing.

3. An attorney or law firm retained by the consumer in connection with his or her legal claim shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

4. An attorney who has referred the consumer to his or her retained attorney or law firm shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

5. A consumer litigation funding company shall not use any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner in accordance with procedures for filing prescribed by the Commissioner.

Sec. 21. *1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date though the resolution date. The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually.*

2. The 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.

Sec. 22. *1. If a court of competent jurisdiction determines that a consumer litigation funding company has willfully committed a deceptive and abusive violation of this chapter with regard to a specific consumer litigation funding transaction, the contract shall be void.*

2. Nothing in this chapter shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform by law.

Sec. 23. *1. The contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer.*

2. Nothing in this chapter shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

3. Only a lien imposed by an attorney pursuant to NRS 18.015 that is related to the legal claim of the consumer or a lien imposed by Medicare that is related to the legal claim of a consumer takes priority over any lien imposed by a consumer litigation funding company. All other liens take priority by normal operation of law.

Sec. 24. *Any communication between the attorney of a consumer in a legal claim and a consumer litigation funding company as it pertains to a consumer litigation funding transaction is subject to the attorney-client privilege, including, without limitation, the work-product doctrine.*

Sec. 25. *1. A person shall not engage in the business of a consumer litigation funding company in this State without having first obtained a license from the Commissioner pursuant to this chapter.*

2. For the purpose of this section, a person is "engaged in the business of a consumer litigation funding company" if the person:

(a) Solicits or engages in consumer litigation funding transactions in this State; or

(b) Is located in this State and solicits or engages in consumer litigation funding transactions outside of this State.

3. Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of this section are guilty of a misdemeanor.

Sec. 25.5. *The provisions of section 25 of this act shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatever, including, but not thereby limiting the generality of the foregoing:*

1. The loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods, or things in action.

2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended.

3. Receiving or charging compensation for goods or services, whether or not sold, delivered or provided.

4. The real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

Sec. 26. *1. A person who wishes to obtain a license from the Commissioner to engage in the business of a consumer litigation funding company shall submit an application to the Commissioner. The application must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:*

(a) If the applicant is a natural person, the name and address of the applicant.

(b) If the applicant is a business entity, the name and address of each:

(1) Partner;

(2) Officer;

(3) Director;

(4) Manager or member who acts in a managerial capacity; and

(5) Registered agent,

➥ of the business entity.

(c) Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:

(1) Partners;

(2) Officers;

(3) Directors; and

(4) Managers or members who act in a managerial capacity.

(d) The address of each location at which the applicant proposes to do business under the license.

2. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➥ *The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.*

3. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner shall not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 27. *1. In addition to any other requirements set forth in this chapter, each applicant must submit:*

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(2) Has not made a false statement of material fact on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted or, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(6) If the applicant is a natural person:

(I) Is at least 21 years of age; and

(II) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(b) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry 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. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the denial or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for a license.

Sec. 28. *1. In addition to any other requirements, a natural person who applies for a license pursuant to this chapter shall:*

(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Commissioner.

3. A license as a consumer litigation funding company may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 29. *1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a*

person who is licensed as a consumer litigation funding company, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate the license of a licensee that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 30. *1. An application submitted to the Commissioner pursuant to section 26 of this act must be accompanied by:*

(a) A nonrefundable fee of not more than $1,000 for the application and survey;

(b) Any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and

(c) A fee of not less than $200 and not more than $1,000.

2. An applicant shall, at the time of filing an application, file with the Commissioner, a surety bond payable to the State of Nevada and satisfactory to the Commissioner in an amount not to exceed $50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must provide that the applicant will faithfully conform to and abide by the provisions of this chapter and to all regulations lawfully made by the Commissioner under this chapter and to any such person any and all amounts of money that may become due or owing to this State or to such person from the applicant under this chapter during the period for which the bond is given.

3. Each bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services of the consumer litigation funding company.

4. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

5. The liability of the surety on a bond is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

6. The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after the earlier of:

(a) The death of the licensee or the dissolution or liquidation of his or her business; or

(b) The termination of the bond.

7. A licensee or his or her surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.

8. The Commissioner shall adopt regulations establishing the amount of the fees and the bond required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account created by NRS 232.545.

Sec. 31. *1. Upon the filing of the application and the payment of the fees, the Commissioner shall investigate the facts concerning the application and the requirements provided for in this chapter.*

2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as the Commissioner may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other person as the Commissioner may see fit, at least 10 days before the date set for the hearing.

3. The Commissioner shall make his or her order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.

4. An applicant is entitled to a hearing on the question of the qualifications of the applicant for licensure upon written request to the Commissioner if:

(a) The Commissioner has notified the applicant in writing that the application has been denied; or

(b) The Commissioner has not issued a license within 60 days after the application for a license was filed.

5. A request for a hearing may not be made more than 15 days after the Commissioner has mailed a written notice to the applicant that the application has been denied and stating in substance the findings of the Commissioner supporting the denial of the application.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 32. *If the Commissioner finds:*

1. That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public

and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, within the purposes of this chapter;

2. That the applicant has complied with the provisions of this chapter; and

3. That the applicant has available for the operation of the business liquid assets of at least $50,000,

➥ he or she shall thereupon enter an order granting the application, and file his or her findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.

Sec. 33. *1. A licensee who wishes to change the address of an office or other place of business for which he or she has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.

3. If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed $1,000.

Sec. 34. *A license issued pursuant to this chapter is not transferable or assignable.*

Sec. 35. *Every licensee shall maintain assets of at least $50,000 either used or readily available for use in the conduct of the business of each licensed office.*

Sec. 35.5. *A licensee who has an office or other place of business located outside of this State shall file with the Commissioner the information required pursuant to NRS 77.310 and continuously maintain a registered agent for service of legal process. Such agent must be an attorney who is licensed to practice law in this State and who has an office located in this State.*

Sec. 36. *1. Each licensee shall keep and use in his or her business such books and accounting records as are in accord with sound and accepted accounting practices.*

2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.

3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

4. Each licensee who operates an office or other place of business outside this State that is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any

investigation or examination made at the office or place of business located outside this State.

Sec. 36.2. *1. At least once each year, the Commissioner or his or her authorized representative shall make an examination of the place of business of each licensee and of the transactions, books, papers and records of each licensee that pertain to the business licensed under this chapter.*

2. For each examination conducted pursuant to subsection 1, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 36.4. *Each licensee shall pay the assessment levied pursuant to NRS 658.055 and cooperate fully with the audits and examinations performed pursuant thereto.*

Sec. 36.6. *In addition to any other fee provided by this chapter, the Commissioner shall assess and collect from each licensee the reasonable cost of auditing the books and records of a licensee.*

Sec. 37. *A licensee shall not conduct the business of a consumer litigation funding company under any name or at a place other than stated in the license. Nothing is this section shall be construed to prohibit:*

1. Consumer litigation funding transactions by mail; or

2. Accommodations for a consumer when necessitated by hours of employment, sickness or other emergency situations.

Sec. 38. *1. On or before January 31 of each year, a licensee shall submit a report to the Commissioner containing:*

(a) The number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year;

(b) A summation of the total funded amount of the consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year, expressed in dollars; and

(c) The annual percentage charged to each consumer when repayment was made.

2. If a licensee operated more than one office or provides consumer litigation funding to persons outside of the State, the licensee shall submit a composite report of all consumer litigation funding transactions in which the company engaged for the immediately preceding year.

3. The Commissioner shall make the information contained in the report available to the public upon request in a manner which maintains the confidentiality of the name of each company and consumer.

Sec. 38.2. *1. The Commissioner may enforce this chapter and regulations adopted pursuant thereto by taking one or more of the following actions:*

(a) Ordering a licensee or a director, employee or other agent of a licensee to cease and desist from any violations;

(b) Ordering a licensee or a director, employee or other agent of a licensee who has caused a violation to correct the violation, including, without limitation, making restitution of money to a person aggrieved by a violation;

(c) Imposing on a licensee or a director, employee or other agent of a licensee who has caused a violation a civil penalty not to exceed $5,000 for each violation; or

(d) Suspending or revoking the license of a licensee in accordance with section 38.6 of this act.

2. If a person violates or knowingly authorizes, directs or aids in the violation of a final order issued pursuant to paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed $10,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county in this State.

4. The Commissioner may recover the reasonable costs of enforcing subsections 1, 2 and 3, including, without limitation, attorney's fees, based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty imposed pursuant to subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator and any other factor the Commissioner considers relevant to the determination of a civil penalty.

Sec. 38.3. *1. The Commissioner may impose an administrative fine of not more than $50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.*

2. The Commissioner shall afford to any person fined pursuant to subsection 1 reasonable notice and an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. A person fined by the Commissioner pursuant to subsection 1 is entitled to judicial review of the decision of the Commissioner in the manner provided by chapter 233B of NRS.

Sec. 38.6. *1. The Commissioner may suspend or revoke a license if:*

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay an applicable tax, fee or assessment; or

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter.

2. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written

notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

3. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.

4. Unless otherwise provided in an order, the order for the revocation or suspension of a license applies only to the license granted to a person for the particular location for which grounds for revocation or suspension exist.

5. A licensee upon whom a fine has been imposed or whose license was suspended or revoked pursuant to this section is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

Sec. 38.8. *1. Except as otherwise provided in this section, if a licensee willfully:*

(a) Enters into a consumer litigation funding contract for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

➥ the consumer litigation funding contract is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the consumer litigation funding transaction.

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

Sec. 38.9. *1. A consumer, an attorney for a consumer or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:*

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon the receipt of a complaint filed pursuant to subsection 1, the Commissioner may investigate and conduct hearings concerning the complaint.

Sec. 38.95. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;

(e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;

(g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(h) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(i) Credit union that is supervised pursuant to chapter 678 of NRS.

(j) Consumer litigation funding company that is supervised pursuant to the chapter consisting of sections 2 to 38.9, inclusive, of this act.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 39. 1. Notwithstanding the amendatory provisions of this act, a consumer litigation funding company that ~~[submits]~~:

(a) Holds a license issued pursuant to chapter 675 of NRS on or before October 1, 2019; and

(b) Submits an application for licensure pursuant to section 26 of this act on or before January 1, 2020,

➥ shall be deemed to hold a license to engage in the business of a consumer litigation funding company issued pursuant to section 32 of this act and may continue to conduct consumer litigation funding transactions while the application for licensure is pending approval or denial.

2. The Commissioner of Financial Institutions may adopt regulations for the administration and enforcement of this section.

3. As used in this section:

(a) "Consumer litigation funding company" has the meaning ascribed to it in section 8 of this act.

(b) "Consumer litigation funding transaction" has the meaning ascribed to it in section 10 of this act.

Sec. 40. The amendatory provisions of this act do not apply to any contract entered into before ~~[July]~~ October 1, 2019, until the contract is amended, extended or renewed.

Sec. 41. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2019, for all other purposes.

2. Sections 28 and 29 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

~~[1.]~~ (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

~~[2.]~~ (b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

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

Motion carried.

Senate in recess at 2:04 p.m.

SENATE IN SESSION

At 2:07 p.m.
President Marshall presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Cannizzaro moved that there be no further consideration of the bill under the Unfinished Business File at this time.
Motion carried.

Senator Ratti moved that Senate Bill No. 472 be taken from the Secretary's desk and placed on the General File on the fourth Agenda.
Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 68.
Bill read second time and ordered to third reading.

Assembly Bill No. 77.
Bill read second time and ordered to third reading.

Assembly Bill No. 128.
Bill read second time and ordered to third reading.

Assembly Bill No. 234.
Bill read second time and ordered to third reading.

Assembly Bill No. 319.
Bill read second time and ordered to third reading.

Assembly Bill No. 364.
Bill read second time and ordered to third reading.

Assembly Bill No. 456.
Bill read second time and ordered to third reading.

Assembly Bill No. 494.
Bill read second time and ordered to third reading.

Assembly Bill No. 498.
Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 10.
Resolution read second time and ordered to third reading.

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

Senate in recess at 2:12 p.m.

SENATE IN SESSION

At 9:03 p.m.
President Marshall presiding.
Quorum present.

REPORTS OF COMMITTEE

Madam President:

Your Committee on Finance, to which was re-referred Senate Bill No. 377, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

Also, your Committee on Finance, to which was referred Senate Bill No. 507, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 209, 263, 425, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Madam President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 44, 264, 297, 383, 466, 476, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

Madam President:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 223, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JULIA RATTI, *Chair*

Madam President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 291, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

NICOLE J. CANNIZZARO, *Chair*

Madam President:

Your Committee on Natural Resources, to which were referred Assembly Bills Nos. 229, 331, 537, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MELANIE SCHEIBLE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 2019

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 254, 276, 295, 314, 321, 376, 497, 532, 536, 539, 541; Assembly Bill No. 540.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 111, 216, 250, 300, 326, 445, 489, 516, 533.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 50, Amendment No. 1035, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 703 to Assembly Bill No. 140.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 111.

Senator Ratti moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 216.

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

Motion carried.

Assembly Bill No. 250.

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

Motion carried.

Assembly Bill No. 300.

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

Motion carried.

Assembly Bill No. 326.

Senator Ratti moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 445.

Senator Ratti moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 489.

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

Motion carried.

Assembly Bill No. 516.

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

Motion carried.

Assembly Bill No. 533.

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

Motion carried.

Assembly Bill No. 540.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 472.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1008.

SUMMARY—Establishes a database of information concerning health insurance claims in this State. (BDR 40-1145)

AN ACT relating to health care; requiring the Department of Health and Human Services to establish an all-payer claims database containing information relating to health insurance claims for benefits provided in this State; requiring certain insurers to submit data to the database; authorizing certain additional insurers to submit data to the database; providing for the release of data in the database under certain circumstances; requiring the Department to publish a report on the quality and cost of health care using data from the database; requiring the Department to submit certain other reports concerning the database to the Legislature; providing immunity from civil and criminal liability for certain persons and entities; authorizing the imposition of administrative penalties for violations of certain requirements concerning the database; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the collection and maintenance of data and the issuance of reports concerning the prices of prescription drugs and cancer. (NRS 439B.600-439B.695, 457.230-457.280) Section 8 of this bill requires the Department of Health and Human Services to establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State. Section 8 authorizes the Department to establish an advisory committee if necessary, to assist the Department in establishing and maintaining the database. Section 9 of this bill requires any public or private insurer that provides health benefits and is regulated under state law to submit data to the database. Section 9 also authorizes certain insurers that are regulated under federal law to submit data to the database.

Sections 10 and 17 of this bill provide for the confidentiality of the data contained in the database. Section 11 of this bill requires a person or entity that wishes to obtain data from the database to submit a request to the Department. Section 12 of this bill prescribes the conditions under which such a request may be granted, which: (1) differ depending on the sensitivity of the data requested; and (2) include the payment of a fee. Section 12 also prohibits a person or entity to whom data is released from using or disclosing the data in certain circumstances. Section 13 of this bill requires the Department to publish a report at least annually concerning the quality, efficiency and cost of health care in this State using data from the database. Sections 14 and 18 of this bill require the Department to submit certain reports to the Legislature concerning the establishment, operation and funding of the database.

Section 15 of this bill provides an exemption from civil and criminal liability to: (1) a person or entity that provides information to the Department, including data submitted to the database, in good faith; and (2) the Department and its

members, officers and employees for failing to provide data from the database or providing incorrect data from the database. Section 16 of this bill requires the Department to adopt regulations necessary for the establishment and maintenance of the database. Section 16 requires such regulations to establish administrative penalties to be imposed against: (1) an insurer that fails to submit data to the database; and (2) any person or entity that accesses, maintains, uses or discloses data from the database in an unauthorized manner.

Section 17.5 of this bill makes an appropriation to the Division of Health Care Financing and Policy of the Department for the personnel and operating costs related to implementation of the database.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"All-payer claims database" means the all-payer claims database established pursuant to section 8 of this act.*

Sec. 4. *"Direct patient identifier" means data that directly identifies a patient, including, without limitation, a name, telephone number, social security number, number associated with a medical record, health plan beneficiary number, certificate or license number, vehicle identification number, serial number, license plate number, Internet address, electronic mail address, biometric identifier or photographic image.*

Sec. 5. *"Indirect patient identifier" means data that can be used to identify a patient when combined with other information.*

Sec. 6. *"Proprietary financial information" means data that discloses or allows the determination of:*

1. A specific term of a contract, discount or other agreement between a provider of health care or a health facility and an entity described in section 9 of this act; or

2. An internal fee schedule or other unique pricing mechanism used by a provider of health care, a health facility or an entity described in section 9 of this act.

Sec. 7. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 8. *1. The Department shall establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State.*

2. The Department shall:

(a) Establish a secure process for uploading data to the database pursuant to section 9 of this act. When establishing that process, the Department shall consider the time and cost incurred to upload data to the database.

(b) Establish and carry out a process to review the data submitted to the database to:

(1) Ensure the accuracy of the data and the consistency of records; and

(2) Identify and remove duplicate records.

(c) Assign an identifier to each patient represented in the database. The identifier must allow a person who receives data from the database that does not contain direct patient identifiers or indirect patient identifiers to identify data concerning the patient without identifying the patient.

2. The Department may establish an advisory committee if necessary to assist the Department in carrying out the provisions of sections 2 to 16, inclusive, of this act, including, without limitation, an advisory committee concerning the maintenance and release of data. The membership of any advisory committee established pursuant to this section must include, without limitation, representatives of providers of health care, health facilities, health authorities, as defined in NRS 439.005, health maintenance organizations, private insurers, nonprofit organizations that represent consumers of health care services and each of the two entities that submit data concerning the largest number of claims to the database.

Sec. 9. *1. Each health carrier, governing body of a local government agency that provides health insurance through a self-insurance reserve fund pursuant to NRS 287.010 or entity required by the regulations adopted pursuant to section 16 of this act to submit data to the database and the Public Employee Benefits Program shall submit to the all-payer claims database the data prescribed by the Department pursuant to section 16 of this act. The Department shall submit to the database the data prescribed pursuant to section 16 of this act for claims submitted to the Medicaid program.*

2. A provider of health coverage for federal employees, a provider of health coverage that is subject to the Employee Retirement Income Security Act of 1974 or the administrator of a Taft Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) are not required but may submit to the all-payer claims database the data prescribed by the Department pursuant to section 16 of this act.

3. As used in this section, "health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.

Sec. 10. *1. Except as otherwise provided in subsection 3 and section 12 of this act, data contained in the all-payer claims database is confidential and is not a public record or subject to subpoena.*

2. The Department shall ensure that data is submitted to, stored in and released from the all-payer claims database in a secure manner that complies

with all applicable federal and state laws concerning the privacy of data including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto.

3. To the extent authorized by federal law, the Department may use data contained in the all-payer claims database in any proceeding to enforce the provisions of sections 2 to 16, inclusive, of this act.

Sec. 11. *To obtain data from the all-payer claims database, a person or entity must submit a request to the Department. The request must include, without limitation:*

1. A description of the data the person or entity wishes to receive;

2. The purpose for requesting the data;

3. A description of the proposed use of the data, including, without limitation:

(a) The methodology of any study that will be conducted and any variables that will be used; and

(b) The names of any persons or entities to whom the applicant plans to disclose data from the all-payer claims database and the reasons for the proposed disclosure;

4. The measures that the requester plans to take to ensure the security of the data and prevent unauthorized use of the data in accordance with section 12 of this act; and

5. The method by which the data will be stored, destroyed or returned to the Department at the completion of the activities for which the data will be used.

Sec. 12. *1. The Department may release data from the all-payer claims database that contains direct patient identifiers, indirect patient identifiers, proprietary financial information or any combination thereof to a person or entity approved by the Department that:*

(a) Is conducting research that has been approved by an institutional review board and is designed to:

(1) Assist patients, providers and hospitals to make informed choices concerning care;

(2) Enable providers, hospitals or communities to improve performance by allowing comparison with other providers, hospitals or communities, as applicable;

(3) Enable purchasers of health care services to identify value, build expectations into purchasing strategies and reward improvements over time; or

(4) Promote competition among providers, hospitals or insurers based on quality and cost;

(b) Has executed an agreement with the Department to keep data containing direct patient identifiers absolutely confidential and an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(c) Has submitted a request that meets the requirements of this section and the fee prescribed pursuant to section 16 of this act.

2. In addition to persons and entities who meet the requirements of subsection 1, the Department may release data from the all-payer claims database that contains proprietary financial information, indirect patient identifiers or any combination thereof but does not contain direct patient identifiers to a governmental entity approved by the Department that has:

(a) Executed an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(b) Submitted a request that meets the requirements of this section and the fee prescribed pursuant to section 16 of this act.

3. The Department may release data from the all-payer claims database that contains indirect patient identifiers but does not contain direct patient identifiers or proprietary financial information to any person or entity approved by the Department that has:

(a) Executed an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(b) Submitted a request that meets the requirements of this section and the fee prescribed pursuant to section 16 of this act.

4. The Department may release data from the all-payer claims database that does not contain direct patient identifiers, indirect patient identifiers or proprietary financial information to a person or entity approved by the Department that has submitted a request that meets the requirements of this section and the fee prescribed pursuant to section 16 of this act.

5. A governmental entity that receives data that contains proprietary financial information pursuant to subsection 2 shall not use that data for any purpose related to the purchase or procurement of benefits for employees.

6. An agreement concerning the use of data from the all-payer claims database executed pursuant to subsection 1, 2 or 3 must include, without limitation:

(a) Required measures for the recipient of the data to protect the security of data containing direct patient identifiers, indirect patient identifiers or proprietary financial information, as applicable;

(b) A prohibition on disclosure of data containing direct patient identifiers, indirect patient identifiers or proprietary financial information, as applicable, by the recipient of the data under circumstances other than those described in subsection 7;

(c) A prohibition on the recipient of the data determining or attempting to determine the identity of any person whom the data concerns or locating or attempting to locate data associated with a specific natural person; and

(d) A requirement that the recipient of the data destroy the data or return the data to the Department at the conclusion of the authorized use of the data.

7. A person or entity that receives data from the all-payer claims database pursuant to this section shall not:

(a) Disclose direct patient identifiers, indirect patient identifiers or proprietary financial information; or

(b) Disclose or use the data in any manner other than as described in the request submitted pursuant to section 11 of this act.

Sec. 13. *1. The Department shall, at least annually, publish a report concerning the quality, efficiency and cost of health care in this State based on the data in the all-payer claims database. Such a report must be peer-reviewed by entities that report data pursuant to section 9 of this act before the report is released.*

2. A report published pursuant to subsection 1 must, where feasible, separate data by demographics, income, health status and geography of, and language spoken by, patients to assist in the identification of variations in the efficiency and quality of care.

3. Any comparison of cost among providers of health care or health care systems presented in a report published pursuant to subsection 1 must account for differences in costs attributable to populations served, severity of illness, subsidies for uninsured patients and recipients of Medicaid and Medicare and expenses for educating providers of health care, where applicable.

4. A report published pursuant to this section must not:

(a) Contain direct patient identifiers, indirect patient identifiers or proprietary financial information. Such a report may contain data concerning aggregate costs calculated using proprietary financial information if the manner in which the data is displayed does not disclose proprietary financial information.

(b) Include in any comparison of the performance of providers of health care information concerning a provider of health care who is a solo practitioner or practices in a group of fewer than four providers.

5. A report published pursuant to subsection 1 must not contain information identified as relating to a specific provider of health care, health facility or entity that reports data pursuant to section 9 of this act unless the provider of health care, health facility or entity to which the information pertains is allowed to view the report before publication, request corrections of any errors in the information and comment on the reasonableness of the conclusions of the report.

6. On or before October 31 of each year, the Department shall publish on an Internet website maintained by the Department a list of reports the Department intends to publish pursuant to this section during the next calendar year. The Department may solicit public comment concerning that list.

Sec. 14. *1. On or before December 31 of each even-numbered year, the Department shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the cost, performance and effectiveness of the all-payer claims database and any recommendations to improve the all-payer claims database.*

2. On or before July 1 and December 31 of each year, the Department shall:

(a) Compile a report of any grants received by the Department to carry out the provisions of sections 2 to 16, inclusive, of this act; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) On December 31 of an even-numbered year, the next regular session of the Legislature; and

(2) In all other cases, the Interim Finance Committee.

Sec. 15. *1. No person or entity providing information to the Department, including, without limitation, data submitted to the all-payer claims database in accordance with sections 2 to 16, inclusive, of this act, may be held liable in a civil or criminal action for disclosing confidential information unless the person or entity has done so in bad faith or with malicious purpose.*

2. The Department and its members, officers and employees are not liable in any civil or criminal action for any damages resulting from any act, omission, error or technical problem that causes incorrect information from the all-payer claims database to be provided to any person or entity.

Sec. 16. *1. The Department shall adopt regulations that prescribe:*

(a) The data that must be uploaded to the all-payer claims database pursuant to section 9 of this act and the date by which such data must be submitted. Such data must include, without limitation, data concerning medical claims, pharmacy claims and dental claims.

(b) Fees for obtaining data from the database pursuant to section 12 of this act. Such fees must be calculated to cover the costs incurred by the Department to carry out the provisions of sections 2 to 16, inclusive, of this act.

(c) Administrative penalties to be assessed against:

(1) Any person or entity described in subsection 1 of section 9 of this act who fails to submit data to the all-payer claims database as required by that section;

(2) Any person or entity who accesses or discloses data contained in the all-payer claims database in violation of sections 2 to 16, inclusive, of this act; and

(3) Any person or entity to whom data is disclosed pursuant to section 12 of this act who uses, maintains or discloses such data for an unauthorized purpose.

2. The Department may adopt:

(a) Regulations that require entities that provide health coverage in this State, in addition to the entities prescribed by section 9 of this act, to upload data to the all-payer claims database; and

(b) Any other regulations necessary to carry out the provisions of sections 2 to 16, inclusive, of this act.

3. The Department may:

(a) Enter into any contract or agreement necessary to carry out the provisions of sections 2 to 16, inclusive, of this act; and

(b) Accept any gifts, grants and donations for the purpose of carrying out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 17. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846,

463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 10 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential

information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 17.5. 1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of Health and Human Services for the personnel and operating costs related to implementation of the provisions of sections 2 to 16, inclusive, of this act, the following sums:

For the Fiscal Year 2019-2020..... $1,405

For the Fiscal Year 2020-2021..... $429,707

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2020, and September 17, 2021, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, respectively.

Sec. 18. 1. On or before December 1, 2019, and December 1, 2020, the Department of Health and Human Services shall:

(a) Develop a report concerning the implementation of sections 2 to 16, inclusive, of this act, including, without limitation, the cost of implementing the all-payer claims database and the technical progress made toward full implementation of the all-payer claims database; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In 2019, the Legislative Committee on Health Care and the Interim Finance Committee.

(2) In 2020, the next regular session of the Legislature.

2. As used in this section, "all-payer claims database" has the meaning ascribed to it in section 3 of this act.

Sec. 19. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 20. 1. This section and sections 1 to 17, inclusive, of this act ~~[becomes]~~ become effective:

~~[1.]~~ (a) 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

~~[2.]~~ (b) On January 1, 2020, for all other purposes.

2. Sections 17.5, 18 and 19 of this act become effective on July 1, 2019.

Senator Woodhouse moved the adoption of the amendment.

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

Motion carried.

Senate in recess at 9:08 p.m.

SENATE IN SESSION

At 9:20 p.m.

President Marshall presiding.

Quorum present.

Remarks by Senator Woodhouse.

Amendment No. 1008 to Senate Bill No. 472 adds appropriations of $1,405 in Fiscal Year 2020 and $429,707 in Fiscal Year 2021 from the State General Fund to the Division of Health Care Financing and Policy for personnel and operating costs related to implementing the provisions of the bill.

Amendment adopted.

The following amendment was proposed by Senator Spearman:

Amendment No. 1042.

SUMMARY—Establishes a database of information concerning health insurance claims in this State. (BDR 40-1145)

AN ACT relating to health care; requiring the Department of Health and Human Services to establish an all-payer claims database containing information relating to health insurance claims for benefits provided in this State; requiring certain insurers to submit data to the database; authorizing certain additional insurers to submit data to the database; providing for the release of data in the database under certain circumstances; requiring the Department to publish a report on the quality and cost of health care using data from the database; requiring the Department to submit certain other reports concerning the database to the Legislature; providing immunity from civil and criminal liability for certain persons and entities; authorizing the imposition of administrative penalties for violations of certain requirements concerning the database; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the collection and maintenance of data and the issuance of reports concerning the prices of prescription drugs and cancer. (NRS 439B.600-439B.695, 457.230-457.280) Section 8 of this bill requires

the Department of Health and Human Services to establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State. Section 8 authorizes the Department to establish an advisory committee if necessary, to assist the Department in establishing and maintaining the database. Section 9 of this bill requires any public or private insurer that provides health benefits and is regulated under state law to submit data to the database. Section 9 also authorizes certain insurers that are regulated under federal law to submit data to the database.

Sections 10 and 17 of this bill provide for the confidentiality of the data contained in the database. Section 11 of this bill requires a person or entity that wishes to obtain data from the database to submit a request to the Department. Section 12 of this bill prescribes the conditions under which such a request may be granted, which [: (1)] differ depending on the sensitivity of the data requested [; and (2) include the payment of a fee.] Section 12 also prohibits a person or entity to whom data is released from using or disclosing the data in certain circumstances. Section 13 of this bill requires the Department to publish a report at least annually concerning the quality, efficiency and cost of health care in this State using data from the database. Sections 14 and 18 of this bill require the Department to submit certain reports to the Legislature concerning the establishment, operation and funding of the database.

Section 15 of this bill provides an exemption from civil and criminal liability to: (1) a person or entity that provides information to the Department, including data submitted to the database, in good faith; and (2) the Department and its members, officers and employees for failing to provide data from the database or providing incorrect data from the database. Section 16 of this bill requires the Department to adopt regulations necessary for the establishment and maintenance of the database. Section 16 requires such regulations to establish administrative penalties to be imposed against: (1) an insurer that fails to submit data to the database; and (2) any person or entity that accesses, maintains, uses or discloses data from the database in an unauthorized manner.

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

Section 1. Chapter 439B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"All-payer claims database" means the all-payer claims database established pursuant to section 8 of this act.*

Sec. 4. *"Direct patient identifier" means data that directly identifies a patient, including, without limitation, a name, telephone number, social security number, number associated with a medical record, health plan beneficiary number, certificate or license number, vehicle identification*

number, serial number, license plate number, Internet address, electronic mail address, biometric identifier or photographic image.

Sec. 5. *"Indirect patient identifier" means data that can be used to identify a patient when combined with other information.*

Sec. 6. *"Proprietary financial information" means data that discloses or allows the determination of:*

1. A specific term of a contract, discount or other agreement between a provider of health care or a health facility and an entity described in section 9 of this act; or

2. An internal fee schedule or other unique pricing mechanism used by a provider of health care, a health facility or an entity described in section 9 of this act.

Sec. 7. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 8. *1. The Department shall establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State.*

2. The Department shall:

(a) Establish a secure process for uploading data to the database pursuant to section 9 of this act. When establishing that process, the Department shall consider the time and cost incurred to upload data to the database.

(b) Establish and carry out a process to review the data submitted to the database to:

(1) Ensure the accuracy of the data and the consistency of records; and

(2) Identify and remove duplicate records.

(c) Assign an identifier to each patient represented in the database. The identifier must allow a person who receives data from the database that does not contain direct patient identifiers or indirect patient identifiers to identify data concerning the patient without identifying the patient.

2. The Department may establish an advisory committee if necessary to assist the Department in carrying out the provisions of sections 2 to 16, inclusive, of this act, including, without limitation, an advisory committee concerning the maintenance and release of data. The membership of any advisory committee established pursuant to this section must include, without limitation, representatives of providers of health care, health facilities, health authorities, as defined in NRS 439.005, health maintenance organizations, private insurers, nonprofit organizations that represent consumers of health care services and each of the two entities that submit data concerning the largest number of claims to the database.

Sec. 9. *1. Each health carrier, governing body of a local government agency that provides health insurance through a self-insurance reserve fund pursuant to NRS 287.010 or entity required by the regulations adopted pursuant to section 16 of this act to submit data to the database and the Public Employee Benefits Program shall submit to the all-payer claims database the data prescribed by the Department pursuant to section 16 of this act. The*

Department shall submit to the database the data prescribed pursuant to section 16 of this act for claims submitted to the Medicaid program.

2. A provider of health coverage for federal employees, a provider of health coverage that is subject to the Employee Retirement Income Security Act of 1974 or the administrator of a Taft Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) are not required but may submit to the all-payer claims database the data prescribed by the Department pursuant to section 16 of this act.

3. As used in this section, "health carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner of Insurance, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services.

Sec. 10. *1. Except as otherwise provided in subsection 3 and section 12 of this act, data contained in the all-payer claims database is confidential and is not a public record or subject to subpoena.*

2. The Department shall ensure that data is submitted to, stored in and released from the all-payer claims database in a secure manner that complies with all applicable federal and state laws concerning the privacy of data including, without limitation, the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto.

3. To the extent authorized by federal law, the Department may use data contained in the all-payer claims database in any proceeding to enforce the provisions of sections 2 to 16, inclusive, of this act.

Sec. 11. *To obtain data from the all-payer claims database, a person or entity must submit a request to the Department. The request must include, without limitation:*

1. A description of the data the person or entity wishes to receive;

2. The purpose for requesting the data;

3. A description of the proposed use of the data, including, without limitation:

(a) The methodology of any study that will be conducted and any variables that will be used; and

(b) The names of any persons or entities to whom the applicant plans to disclose data from the all-payer claims database and the reasons for the proposed disclosure;

4. The measures that the requester plans to take to ensure the security of the data and prevent unauthorized use of the data in accordance with section 12 of this act; and

5. The method by which the data will be stored, destroyed or returned to the Department at the completion of the activities for which the data will be used.

Sec. 12. *1. The Department may release data from the all-payer claims database that contains direct patient identifiers, indirect patient identifiers, proprietary financial information or any combination thereof to a person or entity approved by the Department that:*

(a) Is conducting research that has been approved by an institutional review board and is designed to:

(1) Assist patients, providers and hospitals to make informed choices concerning care;

(2) Enable providers, hospitals or communities to improve performance by allowing comparison with other providers, hospitals or communities, as applicable;

(3) Enable purchasers of health care services to identify value, build expectations into purchasing strategies and reward improvements over time; or

(4) Promote competition among providers, hospitals or insurers based on quality and cost;

(b) Has executed an agreement with the Department to keep data containing direct patient identifiers absolutely confidential and an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(c) Has submitted a request that meets the requirements of this section. ~~[and the fee prescribed pursuant to section 16 of this act.]~~

2. In addition to persons and entities who meet the requirements of subsection 1, the Department may release data from the all-payer claims database that contains proprietary financial information, indirect patient identifiers or any combination thereof but does not contain direct patient identifiers to a governmental entity approved by the Department that has:

(a) Executed an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(b) Submitted a request that meets the requirements of this section. ~~[and the fee prescribed pursuant to section 16 of this act.]~~

3. The Department may release data from the all-payer claims database that contains indirect patient identifiers but does not contain direct patient identifiers or proprietary financial information to any person or entity approved by the Department that has:

(a) Executed an agreement with the Department concerning the use of the data that meets the requirements of subsection 6; and

(b) Submitted a request that meets the requirements of this section. ~~[and the fee prescribed pursuant to section 16 of this act.]~~

4. The Department may release data from the all-payer claims database that does not contain direct patient identifiers, indirect patient identifiers or proprietary financial information to a person or entity approved by the

Department that has submitted a request that meets the requirements of this section . ~~*[and the fee prescribed pursuant to section 16 of this act.]*~~

5. A governmental entity that receives data that contains proprietary financial information pursuant to subsection 2 shall not use that data for any purpose related to the purchase or procurement of benefits for employees.

6. An agreement concerning the use of data from the all-payer claims database executed pursuant to subsection 1, 2 or 3 must include, without limitation:

(a) Required measures for the recipient of the data to protect the security of data containing direct patient identifiers, indirect patient identifiers or proprietary financial information, as applicable;

(b) A prohibition on disclosure of data containing direct patient identifiers, indirect patient identifiers or proprietary financial information, as applicable, by the recipient of the data under circumstances other than those described in subsection 7;

(c) A prohibition on the recipient of the data determining or attempting to determine the identity of any person whom the data concerns or locating or attempting to locate data associated with a specific natural person; and

(d) A requirement that the recipient of the data destroy the data or return the data to the Department at the conclusion of the authorized use of the data.

7. A person or entity that receives data from the all-payer claims database pursuant to this section shall not:

(a) Disclose direct patient identifiers, indirect patient identifiers or proprietary financial information; or

(b) Disclose or use the data in any manner other than as described in the request submitted pursuant to section 11 of this act.

Sec. 13. *1. The Department shall, at least annually, publish a report concerning the quality, efficiency and cost of health care in this State based on the data in the all-payer claims database. Such a report must be peer-reviewed by entities that report data pursuant to section 9 of this act before the report is released.*

2. A report published pursuant to subsection 1 must, where feasible, separate data by demographics, income, health status and geography of, and language spoken by, patients to assist in the identification of variations in the efficiency and quality of care.

3. Any comparison of cost among providers of health care or health care systems presented in a report published pursuant to subsection 1 must account for differences in costs attributable to populations served, severity of illness, subsidies for uninsured patients and recipients of Medicaid and Medicare and expenses for educating providers of health care, where applicable.

4. A report published pursuant to this section must not:

(a) Contain direct patient identifiers, indirect patient identifiers or proprietary financial information. Such a report may contain data concerning aggregate costs calculated using proprietary financial information if the

manner in which the data is displayed does not disclose proprietary financial information.

(b) Include in any comparison of the performance of providers of health care information concerning a provider of health care who is a solo practitioner or practices in a group of fewer than four providers.

5. A report published pursuant to subsection 1 must not contain information identified as relating to a specific provider of health care, health facility or entity that reports data pursuant to section 9 of this act unless the provider of health care, health facility or entity to which the information pertains is allowed to view the report before publication, request corrections of any errors in the information and comment on the reasonableness of the conclusions of the report.

6. On or before October 31 of each year, the Department shall publish on an Internet website maintained by the Department a list of reports the Department intends to publish pursuant to this section during the next calendar year. The Department may solicit public comment concerning that list.

Sec. 14. *1. On or before December 31 of each even-numbered year, the Department shall submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the cost, performance and effectiveness of the all-payer claims database and any recommendations to improve the all-payer claims database.*

2. On or before July 1 and December 31 of each year, the Department shall:

(a) Compile a report of any grants received by the Department to carry out the provisions of sections 2 to 16, inclusive, of this act; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) On December 31 of an even-numbered year, the next regular session of the Legislature; and

(2) In all other cases, the Interim Finance Committee.

Sec. 15. *1. No person or entity providing information to the Department, including, without limitation, data submitted to the all-payer claims database in accordance with sections 2 to 16, inclusive, of this act, may be held liable in a civil or criminal action for disclosing confidential information unless the person or entity has done so in bad faith or with malicious purpose.*

2. The Department and its members, officers and employees are not liable in any civil or criminal action for any damages resulting from any act, omission, error or technical problem that causes incorrect information from the all-payer claims database to be provided to any person or entity.

Sec. 16. *1. The Department shall adopt regulations that prescribe:*

(a) The data that must be uploaded to the all-payer claims database pursuant to section 9 of this act and the date by which such data must be

submitted. Such data must include, without limitation, data concerning medical claims, pharmacy claims and dental claims.

(b) ~~[Fees for obtaining data from the database pursuant to section 12 of this act. Such fees must be calculated to cover the costs incurred by the Department to carry out the provisions of sections 2 to 16, inclusive, of this act.~~

~~(c)]~~ Administrative penalties to be assessed against:

(1) Any person or entity described in subsection 1 of section 9 of this act who fails to submit data to the all-payer claims database as required by that section;

(2) Any person or entity who accesses or discloses data contained in the all-payer claims database in violation of sections 2 to 16, inclusive, of this act; and

(3) Any person or entity to whom data is disclosed pursuant to section 12 of this act who uses, maintains or discloses such data for an unauthorized purpose.

2. The Department may adopt:

(a) Regulations that require entities that provide health coverage in this State, in addition to the entities prescribed by section 9 of this act, to upload data to the all-payer claims database; and

(b) Any other regulations necessary to carry out the provisions of sections 2 to 16, inclusive, of this act.

3. The Department may:

(a) Enter into any contract or agreement necessary to carry out the provisions of sections 2 to 16, inclusive, of this act; and

(b) Accept any gifts, grants and donations for the purpose of carrying out the provisions of sections 2 to 16, inclusive, of this act.

Sec. 17. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040,

239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902, 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170, 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,

692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 10 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 18. 1. On or before December 1, 2019, and December 1, 2020, the Department of Health and Human Services shall:

(a) Develop a report concerning the implementation of sections 2 to 16, inclusive, of this act, including, without limitation, the cost of implementing the all-payer claims database and the technical progress made toward full implementation of the all-payer claims database; and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to:

(1) In 2019, the Legislative Committee on Health Care and the Interim Finance Committee.

(2) In 2020, the next regular session of the Legislature.

2. As used in this section, "all-payer claims database" has the meaning ascribed to it in section 3 of this act.

Sec. 19. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 20. This act becomes effective:

1. 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

2. On January 1, 2020, for all other purposes.

Senator Ratti moved the adoption of the amendment.

Remarks by Senator Ratti.

Amendment No. 1042 to Senate Bill No. 472 eliminates the fees required as a condition of receiving data from the all-payer claims database and deletes related provisions that require the Department of Health and Human Services to adopt regulations prescribing such fees.

Amendment adopted.

Bill read third time.

Remarks by Senators Spearman, Seevers Gansert and Pickard.

SENATOR SPEARMAN:

Senate Bill No. 472 requires the Department of Health and Human Services (DHHS) to establish an all-payer claims database relating to medical, dental or pharmacy benefits provided in this State. Public and private insurers that provide health benefits and are regulated under State law must submit data to the database, and certain insurers regulated by federal law may submit data to the database. The DHHS must use data from the database to publish an annual report concerning the quality, efficiency and cost of health care in the State and submit certain reports to the Legislature. To support personnel and operating costs related to implementing the provisions of the bill, Senate Bill No. 472 makes appropriations of $1,405 in Fiscal Year 2020 and $429,707 in Fiscal Year 2021 from the State General Fund to the Division of Health Care Financing and Policy.

SENATOR SEEVERS GANSERT:

I rise in opposition to Senate Bill No. 472. This bill has broad powers. I will read from sections that are of concern to me. Section 4 states, " 'direct patient Identifier' means data that directly identifies a patient including, without limitation, a name, telephone number, social security number, number associated with a medical record, health plan beneficiary number, certificate or license number, vehicle identification number, serial number, license plate number, Internet address, electronic mail address, biometric identifier or photographic image." In section 8, this bill goes on to say, "The Department shall establish an all-payer claims database of information relating to health insurance claims resulting from medical, dental or pharmacy benefits provided in this State." All this information is to be uploaded. In section 12.1, it says this data will be made available to entities that are conducting research. It states, "The Department may release data from the all-payer claims database that contains direct patient identifiers, indirect patient identifiers, proprietary financial information or any combination thereof to a person or entity approved by the Department...". The entities referenced in section 12 are conducting research that has been approved by an institutional review board, and there are things enumerated further in this section. In section 12.1(b), it states the entity is supposed to have "…executed an agreement with the Department to keep data containing direct patient identifiers absolutely confidential and (have) an agreement with the Department concerning the use of the data that meets the requirements of subsection 6." Section 12.2 discusses that type of agreement being released to a governmental entity, but, in this case, it does not include the direct patient identifier, only indirect identifiers. It is alarming to have a database with this type of information collected by the State and to have this

distributed or provided to anyone who qualifies, through research, to use this information. This is a deep level of personal identifying information, and I am not sure we want it in a single database. I am concerned about the security of the information and about providing it to anyone. There is not a problem with providing indirect patient identifier information for researchers to learn about the types of health care being provided and outcomes, but making it personal, with this level of detail, is concerning. For these reasons, I am opposed to Senate Bill No. 472.

SENATOR SPEARMAN:

I appreciate the concerns of my colleague, but this is the same type of reporting that has been implemented in several states. Like anything where we put our name, social security number or other identifier, it has to be HIPAA compliant. The information will not be available to just anyone. We are proposing to collect this data to ensure people understand which health plans are best for them. Now, it is a matter of chance, and people do not understand the small print in the plans. The Department of Health and Human Services will be collecting information about the health plans; it has nothing to do with individuals. We need the individual data to upload it. It will be HIPAA compliant; we are not reinventing the wheel. In 2014, this was adopted by Washington State, approved unanimously by the legislature and signed into law. This was brought to my attention by a co-chair from the Council of State Governments, who happens to be Republican.

SENATOR PICKARD:

I rise in opposition to Senate Bill No. 472. I applaud the effort, and the intent is noble. We are trying to understand what insurance is out there and better match people with policies, but that does not require personal identifying information especially to the degree just described. If the NSA, Amazon and Anthem Blue Cross/Blue Shield, who are required under HIPAA to protect their databases, cannot prevent intrusion, it is not a matter of "it," it is a matter of when. Washington State has just implemented this but has not had time to have a breach. I do not want the information for our residents out there as well. It is unnecessary to have this personally identifying information when we are talking about a matching effort. I am opposed to this measure.

Roll call on Senate Bill No. 472:

YEAS—12.

NAYS—Goicoechea, Hammond, Hansen, Hardy, Kieckhefer, Pickard, Seevers Gansert, Settelmeyer—8.

EXCUSED—Washington.

Senate Bill No. 472 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Senate Bill No. 507.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1038.

SUMMARY—Makes an appropriation to the ~~[Office of Finance as a loan]~~ State Public Works Division of the Department of Administration for the support of the Marlette Lake ~~[,]~~ Water System. (BDR S-1176)

AN ACT ~~[relating to state financial administration;]~~ making an appropriation to the ~~[Office of Finance as a loan]~~ State Public Works Division of the Department of Administration for the support of the Marlette Lake ~~[,]~~ Water System; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the ~~[Office of Finance in the Office of the Governor]~~ State Public Works Division of the Department of Administration the sum of $200,000 ~~[as a loan]~~ for the support of the Marlette Lake ~~[,]~~ Water System.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2021, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

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

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1038 to Senate Bill No. 507 makes a General Fund appropriation to the State Public Works Division of the Department of Administration for the support of the Marlette Lake water system and deletes reference to the appropriation as a loan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 44.

Bill read second time and ordered to third reading.

Assembly Bill No. 223.

Bill read second time and ordered to third reading.

Assembly Bill No. 229.

Bill read second time and ordered to third reading.

Assembly Bill No. 264.

Bill read second time and ordered to third reading.

Assembly Bill No. 291.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1027.

SUMMARY—Revises provisions relating to public safety. (BDR ~~[15-759)]~~ 3-759)

AN ACT relating to public safety; establishing provisions governing certain orders for protection against high-risk behavior; defining certain terms relating to the issuance of such orders; prescribing certain conduct and acts that constitute high-risk behavior; authorizing certain persons to apply for ex parte and extended orders for protection against high-risk behavior under certain

circumstances; providing for the issuance and enforcement of such orders; prohibiting a person against whom such an order is issued from possessing or having under his or her custody or control, or purchasing or otherwise acquiring, any firearm during the period in which the order is in effect; establishing certain other procedures relating to such orders; prohibiting the filing of an application for such orders under certain circumstances; making it a crime to violate such orders; prohibiting certain acts relating to the modification of a semiautomatic firearm; reducing the concentration of alcohol that may be present in the blood or breath of a person while in possession of a firearm; ~~[revising provisions relating to state preemption of the authority to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearms accessories and ammunition;]~~ making it a crime to negligently store or leave a firearm under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a court to issue certain temporary or extended orders for protection. (NRS 33.020, 33.270, 33.400) Sections 2-22 of this bill similarly establish procedures for the issuance of ex parte or extended orders when a person poses a risk of personal injury to himself or herself or another person under certain circumstances. Sections 4-9 of this bill set forth certain definitions relating to such orders. Section 10 of this bill prescribes certain acts and conduct which constitute high-risk behavior for the purposes of the issuance of such orders.

Section 11 of this bill authorizes a family or household member or a law enforcement officer to file a verified application to obtain an ex parte or extended order against a person who poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm. Section 12 of this bill requires a court to issue an ex parte order pursuant to a verified application if the court finds by a preponderance of the evidence: (1) that a person poses an imminent risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm; (2) the person has engaged in high-risk behavior; and (3) less restrictive options have been exhausted or are not effective. Section 13 of this bill requires a court to issue an extended order pursuant to a verified application if the court finds by clear and convincing evidence: (1) that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm; (2) the person has engaged in high-risk behavior; and (3) less restrictive options have been exhausted or are not effective. Section 21 of this bill provides that a person who files a verified application for such an order: (1) which he or she knows or has reason to know is false or misleading; or (2) with the intent to harass the adverse party, is guilty of a misdemeanor.

Section 14 of this bill requires the adverse party against whom an ex parte or extended order is issued to surrender any firearm in his or her possession or under his or her custody or control and prohibits the party from possessing or having under his or her custody or control any firearm while the order is in effect. Sections 15-18 of this bill establish additional procedures related to: (1) the issuance and enforcement of such ex parte and extended orders; and (2) the surrender and return of the firearms of the adverse party. Section 19 of this bill provides that orders issued pursuant to this bill are effective as follows: (1) for an ex parte order, a period of 7 days; and (2) for an extended order, a period of 1 year.

Section 22 of this bill provides that a person who violates an ex parte or extended order is guilty of a misdemeanor.

Existing law provides that a person who commits certain crimes that are punishable as a felony in violation of certain orders for protection is subject to an additional penalty. (NRS 193.166) Section 24 of this bill includes a felony committed in violation of an ex parte or extended order, as defined in this bill, to the list of violations which result in an additional penalty.

Section ~~[2]~~ 25 of this bill prohibits a person from importing, selling, manufacturing, transferring, receiving or possessing: (1) any manual, power-driven or electronic device that is designed such that when the device is attached to a semiautomatic firearm, the device eliminates the need for the operator of the semiautomatic firearm to make a separate movement for each individual function of the trigger and materially increases the rate of fire of the semiautomatic firearm or approximates the action or rate of fire of a machine gun; (2) any part or combination of parts that functions to eliminate the need for the operator of the semiautomatic firearm to make a separate movement for each individual function of the trigger and materially increases the rate of fire of the semiautomatic firearm or approximates the action or rate of fire of a machine gun; or (3) any semiautomatic firearm that has been modified in any way that eliminates the need for the operator of the semiautomatic firearm to make a separate movement for each individual function of the trigger and materially increases the rate of fire of the semiautomatic firearm or approximates the action or rate of fire of a machine gun. Section ~~[2]~~ 25 does not apply to employees of a law enforcement agency or members of the Armed Forces of the United States who are carrying out official duties. Section 29 of this bill makes a conforming change.

Section ~~[4]~~ 27 of this bill reduces the allowable concentration of alcohol that may be present in the blood or breath of a person who is in possession of a firearm from 0.10 to 0.08. (NRS 202.257)

~~[Existing law provides that: (1) except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in Nevada and to define such terms; and (2) no county, city or town may infringe upon those rights and powers.~~

~~(NRS 244.364, 268.418, 269.222) Section 8 of this bill repeals those provisions, and section 3 of this bill replaces them with a new provision that generally preempts all local governments from regulating such subjects, except that a county may enact ordinances that are more stringent than state law. Section 7 of this bill makes a corresponding change to the provision authorizing a person who holds a permit to carry a concealed firearm to carry a concealed firearm in a public building under certain circumstances to reflect the possibility that a county having jurisdiction over the public building may enact an ordinance prohibiting the carrying of a concealed firearm in the public building. (NRS 202.3673)~~

~~Sections 4 and 6 of this bill make conforming changes.]~~

Existing law prohibits a child under the age of 18 years from handling, possessing or controlling a firearm under certain circumstances. Existing law also prohibits a person from aiding or knowingly permitting a child to handle, possess or control a firearm under certain circumstances and sets forth penalties upon a person who is found guilty of such an offense. A person does not aid or knowingly permit a child to violate such existing law if the firearm was stored in a securely locked container or at a location which a reasonable person would have believed to be secure. (NRS 202.300) Section 28 of this bill makes it a misdemeanor to negligently store or leave a firearm at a location under his or her control, if a person knows or has reason to know that there is a substantial risk that a child, who is otherwise prohibited from handling, possessing or controlling a firearm, may obtain such a firearm,

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

Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. *As used in sections 2 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~[*1. The Legislature hereby declares that the purpose of this section is to establish state control over the regulation of and policies concerning firearms, firearm accessories and ammunition except as expressly authorized by this section or specific statute.*~~

~~*2. Except as expressly authorized by this section or specific statute:*~~

~~*(a) The Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in Nevada and to define such terms; and*~~

~~*(b) No local government may infringe upon those rights and powers.*~~

~~*3. A board of county commissioners of a county may enact ordinances regulating the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition within the geographical boundaries of the county, including, without limitation, within an incorporated city located within the*~~

~~*geographical boundaries of the county, if such ordinances are more stringent than state law governing the regulation of the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition. Notwithstanding any other provision of law, a peace officer who is employed by a local law enforcement agency may enforce the provisions of a county ordinance enacted by a board of county commissioners pursuant to this subsection within the boundaries of the jurisdiction of the local law enforcement agency that employs the peace officer.*~~

~~*4. A board of county commissioners, governing body of a city or town board may proscribe by ordinance or regulation the unsafe discharge of firearms.*~~

~~*5. Any ordinance or regulation which is inconsistent with this section is null and void, and any official action taken by an employee or agent of a local government in violation of this section is void.*~~

~~*6. This section must not be construed to prevent:*~~

~~*(a) A state or local law enforcement agency or correctional institution from promulgating and enforcing its own rules pertaining to firearms, firearm accessories or ammunition that are issued to or used by peace officers in the course of their official duties.*~~

~~*(b) A court or administrative law judge from hearing and resolving a case or controversy or issuing an opinion or order on a matter within its jurisdiction.*~~

~~*(c) A public employer from regulating or prohibiting the carrying or possession of firearms, firearm accessories or ammunition during or in the course of an employee's official duties.*~~

~~*(d) The enactment or enforcement of a county, city or town zoning or business ordinance which is generally applicable to businesses within the county, city or town, as applicable, and thereby affects a firearms business within the county, city or town, as applicable, including, without limitation, an indoor or outdoor shooting range.*~~

~~*(e) A county, city or town from enacting and enforcing rules for the operation and use of any firearm range owned and operated by the county, city or town, as applicable.*~~

~~*(f) A political subdivision from sponsoring or conducting a firearm related competition or educational or cultural program and enacting and enforcing rules for participation in or attendance at any such competition or program.*~~

~~*(g) A political subdivision or any official thereof with appropriate authority from enforcing any statute of this State.*~~

~~*7. As used in this section:*~~

~~*(a) "Ammunition" includes, without limitation, fixed cartridge ammunition and the individual components thereof, shotgun shells and the individual components thereof, projectiles for muzzle loading firearms and any propellant used in firearms or ammunition.*~~

~~*(b) "Firearm" includes, without limitation, a pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, muzzle-loading firearm or any device which is designed to, able to or able to be readily converted to expel a projectile through the barrel by the action of an explosive, other form of combustion or expanding gases.*~~

~~*(c) "Firearm accessories" means:*~~

~~*(1) Devices specifically designed or adapted to enable the wearing or carrying of a firearm or the storing in or mounting on a conveyance of a firearm; or*~~

~~*(2) Attachments or devices specifically designed or adapted to be inserted into or affixed on a firearm to enable, alter or improve the functioning or capability of the firearm.*~~

~~*(d) "Local government" means any political subdivision of this State, including, without limitation, a city, a county, a town, a school district, a library district, a consolidated library district, any entity or agency that is directly or indirectly controlled by any city or county, and any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.*~~

~~*(e) "Local law enforcement agency" means:*~~

~~*(1) The sheriff's office of a county;*~~

~~*(2) A metropolitan police department; or*~~

~~*(3) A police department of an incorporated city.*~~

~~*(f) "Public employer" has the meaning ascribed to it in NRS 286.070.]*~~ (Deleted by amendment.)

Sec. 4. *"Adverse party" means a natural person who is named in an application for an order of protection against high-risk behavior.*

Sec. 5. *"Ex parte order" means an ex parte order for protection against high-risk behavior.*

Sec. 6. *"Extended order" means an extended order for protection against high-risk behavior.*

Sec. 7. ~~[NRS 202.3673 is hereby amended to read as follows:~~

~~202.3673 1. Except as otherwise provided in subsections 2 [and 3,] , *3 and 4,* a permittee may carry a concealed firearm while the permittee is on the premises of any public building.~~

~~*2. A permittee shall not carry a concealed firearm while the permittee is on the premises of any public building if the county having jurisdiction over the public building has enacted an ordinance prohibiting the carrying of a concealed firearm on the premises of the public building.*~~

~~*3.* A permittee shall not carry a concealed firearm while the permittee is on the premises of a public building that is located on the property of a public airport.~~

~~[3.] *4.* A permittee shall not carry a concealed firearm while the permittee is on the premises of:~~

~~(a) A public building that is located on the property of a public school or a child care facility or the property of the Nevada System of Higher Education,~~

~~unless the permittee has obtained written permission to carry a concealed firearm while he or she is on the premises of the public building pursuant to subparagraph (3) of paragraph (a) of subsection 3 of NRS 202.265.~~

~~(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he or she is on the premises of the public building pursuant to subsection [4.~~

~~4.] 5.~~

~~*5.* The provisions of paragraph (b) of subsection [3] *4* do not prohibit:~~

~~(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which the judge presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.~~

~~(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he or she is on the premises of a public building.~~

~~(c) A permittee who is employed in the public building from carrying a concealed firearm while he or she is on the premises of the public building.~~

~~(d) A permittee from carrying a concealed firearm while he or she is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.~~

~~[5.] 6.~~ ~~A person who violates [subsection 2 or 3] *this section* is guilty of a misdemeanor.~~

~~[6.] 7.~~ ~~As used in this section:~~

~~(a) "Child care facility" has the meaning ascribed to it in paragraph (a) of subsection 5 of NRS 202.265.~~

~~(b) "Public building" means any building or office space occupied by:~~

~~(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or~~

~~(2) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.~~

~~If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.]~~ (Deleted by amendment.)

Sec. 8. ~~[NRS 244.364, 268.418 and 269.222 are hereby repealed.]~~ (Deleted by amendment.)

Sec. 9. *"Family or household member" means, with respect to an adverse party, any:*

1. Person related by blood, adoption or marriage to the adverse party within the first degree of consanguinity;

2. Person who has a child in common with the adverse party, regardless of whether the person has been married to the adverse party or has lived together with the adverse party at any time;

3. Domestic partner of the adverse party;

4. Person who has a biological or legal parent and child relationship with the adverse party, including, without limitation, a natural parent, adoptive parent, stepparent, stepchild, grandparent or grandchild;

5. Person who is acting or has acted as a guardian to the adverse party; or

6. Person who is currently in a dating or ongoing intimate relationship with the adverse party.

Sec. 10. 1. High-risk behavior occurs when a person:

(a) Uses, attempts to use or threatens the use of physical force against another person;

(b) Communicates a threat of imminent violence toward himself or herself or against another person;

(c) Commits an act of violence directed toward himself or herself or another person;

(d) Engages in a pattern of threats of violence or acts of violence against himself or herself or another person, including, without limitation, threats of violence or acts of violence that have caused another person to be in reasonable fear of physical harm to himself or herself;

(e) Exhibits conduct which a law enforcement officer reasonably determines would present a serious and imminent threat to the safety of the public;

(f) Engages in conduct which presents a danger to himself or herself or another person while:

(1) In possession, custody or control of a firearm; or

(2) Purchasing or otherwise acquiring a firearm;

(g) Abuses a controlled substance or alcohol while engaging in high-risk behavior as described in this section; or

(h) Acquires a firearm or other deadly weapon within the immediately preceding 6 months before the person otherwise engages in high-risk behavior as described in this section.

2. For the purposes of this section, a person shall be deemed to engage in high-risk behavior if he or she has previously been convicted of:

(a) Violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) Violating a temporary or extended order for protection against sexual assault issued pursuant to NRS 200.378; or

(c) A crime of violence, as defined in NRS 200.408, punishable as a felony.

Sec. 11. 1. A law enforcement officer who has probable cause to believe that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or

by purchasing or otherwise acquiring any firearm may file a verified application for an ex parte or extended order.

2. A family or household member who reasonably believes that a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm may file a verified application for an ex parte or extended order.

3. A verified application filed pursuant to this section must include, without limitation:

(a) The name of the person seeking the order and whether he or she is requesting an ex parte order or an extended order;

(b) The name and address, if known, of the person who is alleged to pose a risk pursuant to subsection 1 or 2; and

(c) A detailed description of the conduct and acts that constitute high-risk behavior and the dates on which the high-risk behavior occurred.

4. Service of an application for an extended order and the notice of hearing thereon must be served upon the adverse party pursuant to the Nevada Rules of Civil Procedure.

Sec. 12. 1. The court shall issue an ex parte order if the court finds by a preponderance of the evidence from facts shown by a verified application filed pursuant to section 11 of this act:

(a) That a person poses an imminent risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm;

(b) The person engaged in high-risk behavior; and

(c) Less restrictive options have been exhausted or are not effective.

2. The court may require the person who filed the verified application or the adverse party, or both, to appear before the court before determining whether to issue an ex parte order.

3. An ex parte order may be issued with or without notice to the adverse party.

4. Except as otherwise provided in this subsection, a hearing must not be held by telephone. The court shall hold a hearing on the ex parte order and shall issue or deny the ex parte order on the day the verified application is filed or the judicial day immediately following the day the verified application is filed. If the verified application is filed by a law enforcement officer, the court may hold the hearing on the ex parte order by telephone, which must be recorded in the presence of the magistrate or in the immediate vicinity of the magistrate by a certified court reporter or by electronic means. Any such recording must be transcribed, certified by the reporter if the reporter made the recording and certified by the magistrate. The certified transcript must be filed with the clerk of the court.

5. A hearing on an application for an ex parte order must be held within 7 calendar days after the date on which the verified application for the order is filed.

6. In a county whose population is 100,000 or more, the court shall be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of an ex parte order pursuant to subsection 4.

7. In a county whose population is less than 100,000, the court may be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of an ex parte order pursuant to subsection 4.

8. The clerk of the court shall inform the applicant and the adverse party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to NRS 33.095.

Sec. 13. 1. The court shall issue an extended order if the court finds by clear and convincing evidence from facts shown by a verified application filed pursuant to section 11 of this act:

(a) That a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm;

(b) The person engaged in high-risk behavior; and

(c) Less restrictive options have been exhausted or are not effective.

2. A hearing on an application for an extended order must be held within 7 calendar days after the date on which the application for the extended order is filed.

3. The clerk of the court shall inform the applicant and the adverse party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to NRS 33.095.

Sec. 14. Each ex parte or extended order issued pursuant to section 12 or 13 of this act must:

1. Require the adverse party to surrender any firearm in his or her possession or under his or her custody or control in the manner set forth in section 15 of this act.

2. Prohibit the adverse party from possessing or having under his or her custody or control any firearm while the order is in effect.

3. Include a provision ordering any law enforcement officer to arrest the adverse party with a warrant, or without a warrant if the officer has probable cause to believe that the person has been served with a copy of the order and has violated a provision of the order.

4. State the reasons for the issuance of the order.

5. Include instructions for surrendering any firearm as ordered by the court.

6. State the time and date on which the order expires.

7. Require the adverse party to surrender any permit issued pursuant to NRS 202.3657.

8. Include the following statement:

WARNING

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of violating an ex parte or extended order and any other crime that you may have committed in disobeying this order.

Sec. 15. 1. After a court orders an adverse party to surrender any firearm pursuant to section 14 of this act, the adverse party shall, immediately after service of the order:

(a) Surrender any firearm in his or her possession or under his or her custody or control to the appropriate law enforcement agency designated by the court in the order; or

(b) Surrender any firearm in his or her possession or under his or her custody or control to a person, other than a person who resides with the adverse party, designated by the court in the order.

2. If the court orders the adverse party to surrender any firearm to a law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the original receipt to the court. The law enforcement agency shall store any such firearm or may contract with a licensed firearm dealer to provide storage.

3. If the court orders the adverse party to surrender any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide to the court and the appropriate law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered.

4. If there is probable cause to believe that the adverse party has not surrendered any firearm in his or her possession or under his or her custody or control within the time set forth in subsections 2 and 3, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the officer to enter and search any place where there is probable cause to believe any such firearm is located and seize the firearm.

5. If, while executing a search warrant pursuant to subsection 4, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to execute the search warrant and the execution of the warrant shall be deemed unsuccessful. If such execution is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to execute the search warrant until the search warrant is successfully executed.

6. A law enforcement agency shall return any surrendered or seized firearm to the adverse party:

(a) In the manner provided by the policies and procedures of the law enforcement agency;

(b) After confirming that:

(1) The adverse party is eligible to own or possess a firearm under state and federal law; and

(2) Any ex parte or extended order issued pursuant to section 12 or 13 of this act is dissolved or no longer in effect; and

(c) As soon as practicable but not more than 14 days after the dissolution of an ex parte or extended order.

7. If a person other than the adverse party claims title to any firearm surrendered or seized pursuant to this section and he or she is determined by the law enforcement agency to be the lawful owner, the firearm must be returned to him or her, if:

(a) The lawful owner agrees to store the firearm in a manner such that the adverse party does not have access to or control of the firearm; and

(b) The law enforcement agency determines that:

(1) The firearm is not otherwise unlawfully possessed by the lawful owner; and

(2) The person is eligible to own or possess a firearm under state or federal law.

8. As used in this section, "licensed firearm dealer" means a person licensed pursuant to 18 U.S.C. § 923(a).

Sec. 16. 1. The clerk of the court or other person designated by the court shall provide any family or household member who files a verified application pursuant to section 11 of this act or any adverse party, free of cost, with information about the:

(a) Availability of ex parte or extended orders;

(b) Procedures for filing an application for such an order;

(c) Procedures for modifying, dissolving or renewing such an order; and

(d) Right to proceed without counsel.

2. The clerk of the court or other person designated by the court shall assist any person in completing and filing the application, affidavit and any other paper or pleading necessary to initiate or respond to an application for an ex parte or extended order. This assistance does not constitute the practice of law, but the clerk shall not render any advice or service that requires the professional judgment of an attorney.

Sec. 17. 1. The court shall transmit, by the end of the next business day after an ex parte or extended order is issued or renewed, a copy of the order to the appropriate law enforcement agency.

2. The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally with the ex parte or extended order and file with or mail to the clerk of the court proof of service by the end of the next business day after service is made.

3. If, while attempting to serve the adverse party personally pursuant to subsection 2, the health or safety of the officer or the adverse party is put at risk because of any action of the adverse party, the law enforcement officer is under no duty to continue to attempt to serve the adverse party personally and

the service shall be deemed unsuccessful. If such service is unsuccessful, the law enforcement agency shall, as soon as practicable after the risk has subsided, attempt to serve the adverse party personally until the ex parte or extended order is successfully served.

4. A law enforcement agency shall enforce an ex parte or extended order without regard to the county in which the order was issued.

5. The clerk of the court shall issue, without fee, a copy of the ex parte or extended order to any family or household member who files a verified application pursuant to section 11 of this act or the adverse party.

Sec. 18. 1. Whether or not a violation of an ex parte or extended order occurs in the presence of a law enforcement officer, the officer may arrest and take into custody an adverse party:

(a) With a warrant; or

(b) Without a warrant if the officer has probable cause to believe that:

(1) An order has been issued pursuant to section 12 or 13 of this act against the adverse party;

(2) The adverse party has been served with a copy of the order; and

(3) The adverse party is acting in violation of the order.

2. If a law enforcement officer cannot verify that the adverse party was served with a copy of the application and ex parte or extended order, the officer shall:

(a) Inform the adverse party of the specific terms and conditions of the order;

(b) Inform the adverse party that he or she has notice of the provisions of the order and that a violation of the order will result in his or her arrest;

(c) Inform the adverse party of the location of the court that issued the original order and the hours during which the adverse party may obtain a copy of the order; and

(d) Inform the adverse party of the date and time set for a hearing on an application for an ex parte or extended order, if any.

3. Information concerning the terms and conditions of the ex parte or extended order, the date and time of any notice provided to the adverse party and the name and identifying number of the law enforcement officer who gave the notice must be provided in writing to the applicant and noted in the records of the law enforcement agency and the court.

Sec. 19. 1. An ex parte order expires within such time, not to exceed 7 days, as the court fixes. If a verified application for an extended order is filed within the period of an ex parte order or at the same time as an application for an ex parte order pursuant to section 11 of this act, the ex parte order remains in effect until the hearing on the extended order is held.

2. An extended order expires within such time, not to exceed 1 year, as the court fixes.

3. The family or household member or law enforcement officer who filed the verified application or the adverse party may request in writing to appear and move for the dissolution of an ex parte or extended order. Upon a finding

by clear and convincing evidence that the adverse party no longer poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm, the court shall dissolve the order. If the court finds that all parties agree to dissolve the order, the court shall dissolve the order upon a finding of good cause.

4. Not less than 3 months before the expiration of an extended order and upon petition by a family or household member or law enforcement officer, the court may, after notice and a hearing, renew an extended order upon a finding by clear and convincing evidence. Such an order expires within a period, not to exceed 1 year, as the court fixes.

Sec. 20. 1. Any time that a court issues an ex parte or extended order or renews an extended order and any time that a person serves such an order or receives any information or takes any other action pursuant to sections 2 to 22, inclusive, of this act, the person shall, by the end of the next business day:

(a) Cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository; and

(b) Transmit a copy of the order to the Attorney General.

2. If the Central Repository for Nevada Records of Criminal History receives any information described in subsection 1, the adverse party may petition the court for an order declaring that the basis for the information transmitted no longer exists.

3. A petition brought pursuant to subsection 2 must be filed in the court which issued the ex parte or extended order.

4. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the basis for the ex parte or extended order no longer exists.

5. The court, upon granting the petition and entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History.

6. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 5, the Central Repository for Nevada Records of Criminal History shall take reasonable steps to ensure that the information concerning the adverse party is removed from the Central Repository.

7. If the Central Repository for Nevada Records of Criminal History fails to remove the information as provided in subsection 6, the adverse party may bring an action to compel the removal of the information. If the adverse party prevails in the action, the court may award the adverse party reasonable attorney's fees and costs incurred in bringing the action.

8. If a petition brought pursuant to subsection 2 is denied, the adverse party may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 21. *1. A person shall not file a verified application for an ex parte or extended order:*

(a) Which he or she knows or has reason to know is false or misleading; or

(b) With the intent to harass the adverse party.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 22. *A person who intentionally violates an ex parte or extended order is, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, guilty of a misdemeanor.*

Sec. 23. NRS 33.095 is hereby amended to read as follows:

33.095 1. Any time that a court issues a temporary or extended order and any time that a person serves such an order, registers such an order, registers a Canadian domestic-violence protection order or receives any information or takes any other action pursuant to NRS 33.017 to 33.100, inclusive, or NRS 33.110 to 33.158, inclusive, the person shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day.

2. *Any time that a court issues an ex parte or extended order pursuant to section 12 or 13 of this act, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day.*

3. As used in this section, "Canadian domestic-violence protection order" has the meaning ascribed to it in NRS 33.119.

Sec. 24. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 6 of NRS 33.400, subsection 5 of NRS 200.378 or subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) *An ex parte or extended order for protection against high-risk behavior issued pursuant to section 12 or 13 of this act;*

(e) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS;

~~[(e)]~~ *(f)* A temporary or extended order issued pursuant to NRS 200.378; or

~~[(f)]~~ *(g)* A temporary or extended order issued pursuant to NRS 200.591,

➥ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➥ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, battery which results in substantial bodily harm or battery which is committed by strangulation as described in NRS 200.481 or 200.485 if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[Section 1.]~~ *Sec. 25.* Chapter 202 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 2 and 3 of this act.~~

~~Sec. 2.]~~ a new section to read as follows:

1. Except as otherwise provided in subsection 3, a person shall not import, sell, manufacture, transfer, receive or possess:

(a) Any manual, power-driven or electronic device that is designed such that when the device is attached to a semiautomatic firearm, the device eliminates the need for the operator of a semiautomatic firearm to make a separate movement for each individual function of the trigger and:

(1) Materially increases the rate of fire of the semiautomatic firearm; or

(2) Approximates the action or rate of fire of a machine gun;

(b) Any part or combination of parts that is designed and functions to eliminate the need for the operator of a semiautomatic firearm to make a separate movement for each individual function of the trigger and:

(1) Materially increases the rate of fire of a semiautomatic firearm; or

(2) Approximates the action or rate of fire of a machine gun; or

(c) Any semiautomatic firearm that has been modified in any way that eliminates the need for the operator of the semiautomatic firearm to make a separate movement for each individual function of the trigger and:

(1) Materially increases the rate of fire of the semiautomatic firearm; or

(2) Approximates the action or rate of fire of a machine gun.

2. A person who violates any provision of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. This section does not apply to:

(a) Any employee of a federal, state or local law enforcement agency carrying out official duties.

(b) Any member of the Armed Forces of the United States carrying out official duties.

~~[Sec. 4.]~~ *Sec. 26.* NRS 202.253 is hereby amended to read as follows:

202.253 As used in NRS 202.253 to 202.369, inclusive ~~[.]~~ *, and ~~[sections 2 and 3]~~ section 25 of this act:*

1. "Explosive or incendiary device" means any explosive or incendiary material or substance that has been constructed, altered, packaged or arranged in such a manner that its ordinary use would cause destruction or injury to life or property.

2. "Firearm" means any device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion.

3. "Firearm capable of being concealed upon the person" applies to and includes all firearms having a barrel less than 12 inches in length.

4. *"Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.*

5. "Motor vehicle" means every vehicle that is self-propelled.

6. *"Semiautomatic firearm" means any firearm that:*

(a) Uses a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next shell or round;

(b) Requires a separate function of the trigger to fire each cartridge; and

(c) Is not a machine gun.

~~[Sec. 5.]~~ *Sec. 27.* NRS 202.257 is hereby amended to read as follows:

202.257 1. It is unlawful for a person who:

(a) Has a concentration of alcohol of ~~[0.10]~~ *0.08* or more in his or her blood or breath; or

(b) Is under the influence of any controlled substance, or is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him or her incapable of safely exercising actual physical control of a firearm,

➥ to have in his or her actual physical possession any firearm. This prohibition does not apply to the actual physical possession of a firearm by a person who was within the person's personal residence and had the firearm in his or her possession solely for self-defense.

2. Any evidentiary test to determine whether a person has violated the provisions of subsection 1 must be administered in the same manner as an evidentiary test that is administered pursuant to NRS 484C.160 to 484C.250, inclusive, except that submission to the evidentiary test is required of any person who is requested by a police officer to submit to the test. If a person to be tested fails to submit to a required test as requested by a police officer, the officer may apply for a warrant or court order directing that reasonable force be used to the extent necessary to obtain the samples of blood from the person to be tested, if the officer has reasonable cause to believe that the person to be tested was in violation of this section.

3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

4. A firearm is subject to forfeiture pursuant to NRS 179.1156 to 179.1205, inclusive, only if, during the violation of subsection 1, the firearm is brandished, aimed or otherwise handled by the person in a manner which endangered others.

5. As used in this section, the phrase "concentration of alcohol of ~~[0.10]~~ *0.08* or more in his or her blood or breath" means ~~[0.10]~~ *0.08* gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.

Sec. 28. NRS 202.300 is hereby amended to read as follows:

202.300 1. Except as otherwise provided in this section, a child under the age of 18 years shall not handle or have in his or her possession or under his or her control, except while accompanied by or under the immediate charge of his or her parent or guardian or an adult person authorized by his or her parent or guardian to have control or custody of the child, any firearm of any kind for hunting or target practice or for other purposes. A child who violates this subsection commits a delinquent act and the court may order the detention of the child in the same manner as if the child had committed an act that would have been a felony if committed by an adult.

2. A person who aids or knowingly permits a child to violate subsection 1:

(a) Except as otherwise provided in paragraph (b), for the first offense, is guilty of a misdemeanor.

(b) For a first offense, if the person knows or has reason to know that there is a substantial risk that the child will use the firearm to commit a violent act, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(c) For a second or any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

3. A person does not aid or knowingly permit a child to violate subsection 1 if:

(a) The firearm was stored in a securely locked container or at a location which a reasonable person would have believed to be secure;

(b) The child obtained the firearm as a result of an unlawful entry by any person in or upon the premises where the firearm was stored;

(c) The injury or death resulted from an accident which was incident to target shooting, sport shooting or hunting; or

(d) The child gained possession of the firearm from a member of the military or a law enforcement officer, while the member or officer was performing his or her official duties.

4. The provisions of subsection 1 do not apply to a child who is a member of the Armed Forces of the United States.

5. *Unless a greater penalty is provided by law, a person is guilty of a misdemeanor who:*

(a) Negligently stores or leaves a firearm at a location under his or her control; and

(b) Knows or has reason to know that there is a substantial risk that a child prohibited from handling or having in his or her possession or under his or her control any firearm pursuant to this section may obtain such a firearm.

6. Except as otherwise provided in subsection ~~[8,]~~ *9,* a child who is 14 years of age or older, who has in his or her possession a valid license to hunt, may handle or have in his or her possession or under his or her control, without being accompanied by his or her parent or guardian or an adult person authorized by his or her parent or guardian to have control or custody of the child:

(a) A rifle or shotgun that is not a fully automatic firearm, if the child is not otherwise prohibited by law from possessing the rifle or shotgun and the child has the permission of his or her parent or guardian to handle or have in his or her possession or under his or her control the rifle or shotgun; or

(b) A firearm capable of being concealed upon the person, if the child has the written permission of his or her parent or guardian to handle or have in his or her possession or under his or her control such a firearm and the child is not otherwise prohibited by law from possessing such a firearm,

➥ and the child is traveling to the area in which the child will be hunting or returning from that area and the firearm is not loaded, or the child is hunting pursuant to that license.

~~[6.]~~ *7.* Except as otherwise provided in subsection ~~[8,]~~ *9,* a child who is 14 years of age or older may handle or have in his or her possession or under his or her control a rifle or shotgun that is not a fully automatic firearm if the child is not otherwise prohibited by law from possessing the rifle or shotgun, without being accompanied by his or her parent or guardian or an adult person authorized by his or her parent or guardian to have control or custody of the child, if the child has the permission of his or her parent or guardian to handle

or have in his or her possession or under his or her control the rifle or shotgun and the child is:

(a) Attending a course of instruction in the responsibilities of hunters or a course of instruction in the safe use of firearms;

(b) Practicing the use of a firearm at an established firing range or at any other area where the discharge of a firearm is permitted;

(c) Participating in a lawfully organized competition or performance involving the use of a firearm;

(d) Within an area in which the discharge of firearms has not been prohibited by local ordinance or regulation and the child is engaging in a lawful hunting activity in accordance with chapter 502 of NRS for which a license is not required;

(e) Traveling to or from any activity described in paragraph (a), (b), (c) or (d), and the firearm is not loaded;

(f) On real property that is under the control of an adult, and the child has the permission of that adult to possess the firearm on the real property; or

(g) At his or her residence.

~~[7.]~~ *8.* Except as otherwise provided in subsection ~~[8,]~~ 9, a child who is 14 years of age or older may handle or have in his or her possession or under his or her control, for the purpose of engaging in any of the activities listed in paragraphs (a) to (g), inclusive, of subsection ~~[6,]~~ 7, a firearm capable of being concealed upon the person, without being accompanied by his or her parent or guardian or an adult person authorized by his or her parent or guardian to have control or custody of the child, if the child:

(a) Has the written permission of his or her parent or guardian to handle or have in his or her possession or under his or her control such a firearm for the purpose of engaging in such an activity; and

(b) Is not otherwise prohibited by law from possessing such a firearm.

~~[8.]~~ *9.* A child shall not handle or have in his or her possession or under his or her control a loaded firearm if the child is:

(a) An occupant of a motor vehicle;

(b) Within any residence, including his or her residence, or any building other than a facility licensed for target practice, unless possession of the firearm is necessary for the immediate defense of the child or another person; or

(c) Within an area designated by a county or municipal ordinance as a populated area for the purpose of prohibiting the discharge of weapons, unless the child is within a facility licensed for target practice.

~~[9.]~~ *10.* For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

~~[Sec. 6.]~~ *Sec. 29.* NRS 202.350 is hereby amended to read as follows:

202.350 1. Except as otherwise provided in this section and NRS 202.3653 to 202.369, inclusive, a person within this State shall not:

(a) Manufacture or cause to be manufactured, or import into the State, or keep, offer or expose for sale, or give, lend or possess any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sand-club, sandbag or metal knuckles;

(b) Manufacture or cause to be manufactured, or import into the State, or keep, offer or expose for sale, or give, lend, possess or use a machine gun or a silencer, unless authorized by federal law;

(c) With the intent to inflict harm upon the person of another, possess or use a nunchaku or trefoil; or

(d) Carry concealed upon his or her person any:

(1) Explosive substance, other than ammunition or any components thereof;

(2) Machete; or

(3) Pistol, revolver or other firearm, other dangerous or deadly weapon or pneumatic gun.

2. Except as otherwise provided in NRS 202.275 and 212.185, a person who violates any of the provisions of:

(a) Paragraph (a) or (c) of subsection 1 or subparagraph (2) of paragraph (d) of subsection 1 is guilty:

(1) For the first offense, of a gross misdemeanor.

(2) For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.

(b) Paragraph (b) of subsection 1 or subparagraph (1) or (3) of paragraph (d) of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. Except as otherwise provided in this subsection, the sheriff of any county may, upon written application by a resident of that county showing the reason or the purpose for which a concealed weapon is to be carried, issue a permit authorizing the applicant to carry in this State the concealed weapon described in the permit. This subsection does not authorize the sheriff to issue a permit to a person to carry a pistol, revolver or other firearm.

4. Except as otherwise provided in subsection 5, this section does not apply to:

(a) Sheriffs, constables, marshals, peace officers, correctional officers employed by the Department of Corrections, special police officers, police officers of this State, whether active or honorably retired, or other appointed officers.

(b) Any person summoned by any peace officer to assist in making arrests or preserving the peace while the person so summoned is actually engaged in assisting such an officer.

(c) Any full-time paid peace officer of an agency of the United States or another state or political subdivision thereof when carrying out official duties in the State of Nevada.

(d) Members of the Armed Forces of the United States when on duty.

5. The exemptions provided in subsection 4 do not include a former peace officer who is retired for disability unless his or her former employer has approved his or her fitness to carry a concealed weapon.

6. The provisions of paragraph (b) of subsection 1 do not apply to any person who is licensed, authorized or permitted to possess or use a machine gun or silencer pursuant to federal law. The burden of establishing federal licensure, authorization or permission is upon the person possessing the license, authorization or permission.

7. This section shall not be construed to prohibit a qualified law enforcement officer or a qualified retired law enforcement officer from carrying a concealed weapon in this State if he or she is authorized to do so pursuant to 18 U.S.C. § 926B or 926C.

8. As used in this section:

(a) "Concealed weapon" means a weapon described in this section that is carried upon a person in such a manner as not to be discernible by ordinary observation.

(b) "Honorably retired" means retired in Nevada after completion of 10 years of creditable service as a member of the Public Employees' Retirement System. A former peace officer is not "honorably retired" if he or she was discharged for cause or resigned before the final disposition of allegations of serious misconduct.

(c) ~~["Machine gun" means any weapon which shoots, is designed to shoot or can be readily restored to shoot more than one shot, without manual reloading, by a single function of the trigger.~~

~~(d)]~~ "Nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods connected by a rope, cord, wire or chain used as a weapon in forms of Oriental combat.

~~[(e)]~~ *(d)* "Pneumatic gun" has the meaning ascribed to it in NRS 202.265.

~~[(f)]~~ *(e)* "Qualified law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926B(c).

~~[(g)]~~ *(f)* "Qualified retired law enforcement officer" has the meaning ascribed to it in 18 U.S.C. § 926C(c).

~~[(h)]~~ *(g)* "Silencer" means any device for silencing, muffling or diminishing the report of a firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a silencer or muffler, and any part intended only for use in such assembly or fabrication.

~~[(i)]~~ *(h)* "Trefoil" means an instrument consisting of a metal plate having three or more radiating points with sharp edges, designed in the shape of a star, cross or other geometric figure and used as a weapon for throwing.

Sec. 30. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on

a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. A person applying for a permit may submit one application and obtain one permit to carry all handguns owned by the person. The person must not be required to list and identify on the application each handgun owned by the person. A permit is valid for any handgun which is owned or thereafter obtained by the person to whom the permit is issued.

3. Except as otherwise provided in this section, the sheriff shall issue a permit to any person who is qualified to possess a handgun under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is:

(1) Twenty-one years of age or older; or

(2) At least 18 years of age but less than 21 years of age if the person:

(I) Is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard; or

(II) Was discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under honorable conditions;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with handguns by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➥ Such a course must include instruction in the use of handguns and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

4. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) *Is currently subject to an ex parte or extended order for protection against high-risk behavior issued pursuant to section 12 or 13 of this act.*

(i) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

~~[(i)]~~ *(j)* Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

~~[(j)]~~ *(k)* Has made a false statement on any application for a permit or for the renewal of a permit.

~~[(k)]~~ *(l)* Has been discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under conditions other than honorable conditions and is less than 21 years of age.

5. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 4 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

6. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

7. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be

witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) If the applicant is a person described in subparagraph (2) of paragraph (a) of subsection 3, proof that the applicant:

(1) Is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, as evidenced by his or her current military identification card; or

(2) Was discharged or released from service in the Armed Forces of the United States, a reserve component thereof or the National Guard under honorable conditions, as evidenced by his or her DD Form 214, "Certificate of Release or Discharge from Active Duty," or other document of honorable separation issued by the United States Department of Defense;

(g) A nonrefundable fee equal to the nonvolunteer rate charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to obtain the reports required pursuant to subsection 1 of NRS 202.366; and

(h) A nonrefundable fee set by the sheriff not to exceed $60.

Sec. 31. NRS 502.010 is hereby amended to read as follows:

502.010 1. A person who hunts or fishes any wildlife without having first procured a license or permit to do so, as provided in this title, is guilty of a misdemeanor, except that:

(a) A license to hunt or fish is not required of a resident of this State who is under 12 years of age, unless required for the issuance of tags as prescribed in this title or by the regulations of the Commission.

(b) A license to fish is not required of a nonresident of this State who is under 12 years of age, but the number of fish taken by the nonresident must not exceed 50 percent of the daily creel and possession limits as provided by law.

(c) Except as otherwise provided in subsection ~~[5 or]~~ 6 *or 7* of NRS 202.300 and NRS 502.066, it is unlawful for any child who is under 18 years of age to hunt any wildlife with any firearm, unless the child is accompanied at all times by the child's parent or guardian or is accompanied at all times by an adult

person authorized by the child's parent or guardian to have control or custody of the child to hunt if the authorized person is also licensed to hunt.

(d) A child under 12 years of age, whether accompanied by a qualified person or not, shall not hunt big game in the State of Nevada. This section does not prohibit any child from accompanying an adult licensed to hunt.

(e) The Commission may adopt regulations setting forth:

(1) The species of wildlife which may be hunted or trapped without a license or permit; or

(2) The circumstances under which a person may fish without a license, permit or stamp in a lake or pond that is located entirely on private property and is stocked with lawfully acquired fish.

(f) The Commission may declare 1 day per year as a day upon which persons may fish without a license to do so.

2. This section does not apply to the protection of persons or property from unprotected wildlife on or in the immediate vicinity of home or ranch premises.

~~[Sec. 9.]~~ *Sec. 32.* 1. This ~~[act becomes]~~ section and sections 25 to 28, inclusive, and 31 of this act become effective upon passage and approval.

2. Sections 1 to 24, inclusive, 29 and 30 of this act become effective on January 1, 2020.

~~TEXT OF REPEALED SECTIONS~~

~~244.364 State control over regulation of firearms, firearm accessories and ammunition; limited regulatory authority of county; conflicting ordinance or regulation void; records of ownership of firearms; civil action by person adversely affected by enforcement of conflicting ordinance or regulation.~~

~~1. The Legislature hereby declares that:~~

~~(a) The purpose of this section is to establish state control over the regulation of and policies concerning firearms, firearm accessories and ammunition to ensure that such regulation and policies are uniform throughout this State and to ensure the protection of the right to keep and bear arms, which is recognized by the United States Constitution and the Nevada Constitution.~~

~~(b) The regulation of the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in this State and the ability to define such terms is within the exclusive domain of the Legislature, and any other law, regulation, rule or ordinance to the contrary is null and void.~~

~~(c) This section must be liberally construed to effectuate its purpose.~~

~~2. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in Nevada and to define such terms. No county may infringe upon those rights and powers.~~

~~3. A board of county commissioners may proscribe by ordinance or regulation the unsafe discharge of firearms.~~

~~4. Any ordinance or regulation which is inconsistent with this section or which is designed to restrict or prohibit the sale, purchase, transfer, manufacture or display of firearms, firearm accessories or ammunition that is otherwise lawful under the laws of this State is null and void, and any official action taken by an employee or agent of a county in violation of this section is void.~~

~~5. A board of county commissioners shall repeal any ordinance or regulation described in subsection 4, and any such ordinance or regulation that is posted within the county must be removed.~~

~~6. A board of county commissioners shall cause to be destroyed any ownership records of firearms owned by private persons which are kept or maintained by the county or any county agency, board or commission, including, without limitation, any law enforcement agency, for the purposes of compliance with any ordinance or regulation that is inconsistent with this section. The provisions of this subsection do not apply to the ownership records of firearms purchased and owned by any political subdivision of this State.~~

~~7. Any person who is adversely affected by the enforcement of an ordinance or regulation that violates this section on or after October 1, 2015, may file suit in the appropriate court for declaratory and injunctive relief and damages attributable to the violation. Notwithstanding any other provision of law, such a person is entitled to:~~

~~(a) Reimbursement of actual damages, reasonable attorney's fees and costs which the person has incurred if, within 30 days after the person commenced the action but before a final determination has been issued by the court, the board of county commissioners repeals the ordinance or regulation that violates this section.~~

~~(b) Liquidated damages in an amount equal to two times the actual damages, reasonable attorney's fees and costs incurred by the person if, more than 30 days after the person commenced the action but before a final determination has been issued by the court, the board of county commissioners repeals the ordinance or regulation that violates this section.~~

~~(c) Liquidated damages in an amount equal to three times the actual damages, reasonable attorney's fees and costs incurred by the person if the court makes a final determination in favor of the person.~~

~~8. This section must not be construed to prevent:~~

~~(a) A law enforcement agency or correctional institution from promulgating and enforcing its own rules pertaining to firearms, firearm accessories or ammunition that are issued to or used by peace officers in the course of their official duties.~~

~~(b) A court or administrative law judge from hearing and resolving a case or controversy or issuing an opinion or order on a matter within its jurisdiction.~~

~~(c) A public employer from regulating or prohibiting the carrying or possession of firearms, firearm accessories or ammunition during or in the course of an employee's official duties.~~

~~(d) The enactment or enforcement of a county zoning or business ordinance which is generally applicable to businesses within the county and thereby affects a firearms business within the county, including, without limitation, an indoor or outdoor shooting range.~~

~~(e) A county from enacting and enforcing rules for the operation and use of any firearm range owned and operated by the county.~~

~~(f) A political subdivision from sponsoring or conducting a firearm-related competition or educational or cultural program and enacting and enforcing rules for participation in or attendance at any such competition or program.~~

~~(g) A political subdivision or any official thereof with appropriate authority from enforcing any statute of this State.~~

~~9. As used in this section:~~

~~(a) "Ammunition" includes, without limitation, fixed cartridge ammunition and the individual components thereof, shotgun shells and the individual components thereof, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.~~

~~(b) "Firearm" includes, without limitation, a pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, muzzle-loading firearm or any device which is designed to, able to or able to be readily converted to expel a projectile through the barrel by the action of an explosive, other form of combustion or expanding gases.~~

~~(c) "Firearm accessories" means:~~

~~(1) Devices specifically designed or adapted to enable the wearing or carrying of a firearm or the storing in or mounting on a conveyance of a firearm; or~~

~~(2) Attachments or devices specifically designed or adapted to be inserted into or affixed on a firearm to enable, alter or improve the functioning or capability of the firearm.~~

~~(d) "Person" includes, without limitation:~~

~~(1) Any person who has standing to bring or maintain an action concerning this section pursuant to the laws of this State.~~

~~(2) Any person who:~~

~~(I) Can legally possess a firearm under state and federal law;~~

~~(II) Owns, possesses, stores, transports, carries or transfers firearms, ammunition or ammunition components within a county; and~~

~~(III) Is subject to the county ordinance or regulation at issue.~~

~~(3) A membership organization whose members include a person described in subparagraphs (1) and (2) and which is dedicated in whole or in part to protecting the legal, civil or constitutional rights of its members.~~

~~(e) "Political subdivision" includes, without limitation, a state agency, county, city, town or school district.~~

~~(f) "Public employer" has the meaning ascribed to it in NRS 286.070.~~

~~268.418 State control over regulation of firearms, firearm accessories and ammunition; limited regulatory authority of city; conflicting ordinance or~~

~~regulation void; records of ownership of firearms; civil action by person adversely affected by enforcement of conflicting ordinance or regulation.~~

~~— 1. The Legislature hereby declares that:~~

~~— (a) The purpose of this section is to establish state control over the regulation of and policies concerning firearms, firearm accessories and ammunition to ensure that such regulation and policies are uniform throughout this State and to ensure the protection of the right to bear arms, which is recognized by the United States Constitution and the Nevada Constitution.~~

~~— (b) The regulation of the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in this State and the ability to define such terms is within the exclusive domain of the Legislature, and any other law, regulation, rule or ordinance to the contrary is null and void.~~

~~— (c) This section must be liberally construed to effectuate its purpose.~~

~~— 2. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in Nevada and to define such terms. No city may infringe upon those rights and powers.~~

~~— 3. The governing body of a city may proscribe by ordinance or regulation the unsafe discharge of firearms.~~

~~— 4. Any ordinance or regulation which is inconsistent with this section or which is designed to restrict or prohibit the sale, purchase, transfer, manufacture or display of firearms, firearm accessories or ammunition that is otherwise lawful under the laws of this State is null and void, and any official action taken by an employee or agent of a city in violation of this section is void.~~

~~— 5. The governing body of a city shall repeal any ordinance or regulation described in subsection 4, and any such ordinance or regulation that is posted within the city must be removed.~~

~~— 6. The governing body of a city shall cause to be destroyed any ownership records of firearms owned by private persons which are kept or maintained by the city or any city agency, board or commission, including, without limitation, any law enforcement agency, for the purposes of compliance with any ordinance or regulation that is inconsistent with this section. The provisions of this subsection do not apply to the ownership records of firearms purchased and owned by any political subdivision of this State.~~

~~— 7. Any person who is adversely affected by the enforcement of an ordinance or regulation that violates this section on or after October 1, 2015, may file suit in the appropriate court for declaratory and injunctive relief and damages attributable to the violation. Notwithstanding any other provision of law, such a person is entitled to:~~

~~— (a) Reimbursement of actual damages, reasonable attorney's fees and costs which the person has incurred if, within 30 days after the person commenced~~

~~the action but before a final determination has been issued by the court, the governing body of the city repeals the ordinance or regulation that violates this section.~~

~~(b) Liquidated damages in an amount equal to two times the actual damages, reasonable attorney's fees and costs incurred by the person if, more than 30 days after the person commenced the action but before a final determination has been issued by the court, the governing body of the city repeals the ordinance or regulation that violates this section.~~

~~(c) Liquidated damages in an amount equal to three times the actual damages, reasonable attorney's fees and costs incurred by the person if the court makes a final determination in favor of the person.~~

~~8. This section must not be construed to prevent:~~

~~(a) A law enforcement agency or correctional institution from promulgating and enforcing its own rules pertaining to firearms, firearm accessories or ammunition that are issued to or used by peace officers in the course of their official duties.~~

~~(b) A court or administrative law judge from hearing and resolving a case or controversy or issuing an opinion or order on a matter within its jurisdiction.~~

~~(c) A public employer from regulating or prohibiting the carrying or possession of firearms, firearm accessories or ammunition during or in the course of an employee's official duties.~~

~~(d) The enactment or enforcement of a city zoning or business ordinance which is generally applicable to businesses within the city and thereby affects a firearms business within the city, including, without limitation, an indoor or outdoor shooting range.~~

~~(e) A city from enacting and enforcing rules for the operation and use of any firearm range owned and operated by the city.~~

~~(f) A political subdivision from sponsoring or conducting a firearm-related competition or educational or cultural program and enacting and enforcing rules for participation in or attendance at any such competition or program.~~

~~(g) A political subdivision or any official thereof with appropriate authority from enforcing any statute of this State.~~

~~9. As used in this section:~~

~~(a) "Ammunition" includes, without limitation, fixed cartridge ammunition and the individual components thereof, shotgun shells and the individual components thereof, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.~~

~~(b) "Firearm" includes, without limitation, a pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, muzzle-loading firearm or any device which is designed to, able to or able to be readily converted to expel a projectile through the barrel by the action of an explosive, other form of combustion or expanding gases.~~

~~(c) "Firearm accessories" means:~~

~~(1) Devices specifically designed or adapted to enable the wearing or carrying of a firearm or the storing in or mounting on a conveyance of a firearm; or~~

~~(2) Attachments or devices specifically designed or adapted to be inserted into or affixed on a firearm to enable, alter or improve the functioning or capability of the firearm.~~

~~(d) "Person" includes, without limitation:~~

~~(1) Any person who has standing to bring or maintain an action concerning this section pursuant to the laws of this State.~~

~~(2) Any person who:~~

~~(I) Can legally possess a firearm under state and federal law;~~

~~(II) Owns, possesses, stores, transports, carries or transfers firearms, ammunition or ammunition components within a city; and~~

~~(III) Is subject to the city ordinance or regulation at issue.~~

~~(3) A membership organization whose members include a person described in subparagraphs (1) and (2) and which is dedicated in whole or in part to protecting the legal, civil or constitutional rights of its members.~~

~~(e) "Political subdivision" includes, without limitation, a state agency, county, city, town or school district.~~

~~(f) "Public employer" has the meaning ascribed to it in NRS 286.070.~~

~~269.222 State control over regulation of firearms, firearm accessories and ammunition; limited regulatory authority of town; conflicting ordinance or regulation void; records of ownership of firearms; civil action by person adversely affected by enforcement of conflicting ordinance or regulation.~~

~~1. The Legislature hereby declares that:~~

~~(a) The purpose of this section is to establish state control over the regulation of and policies concerning firearms, firearm accessories and ammunition to ensure that such regulation and policies are uniform throughout this State and to ensure the protection of the right to keep and bear arms, which is recognized by the United States Constitution and the Nevada Constitution.~~

~~(b) The regulation of the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in this State and the ability to define such terms is within the exclusive domain of the Legislature, and any other law, regulation, rule or ordinance to the contrary is null and void.~~

~~(c) This section must be liberally construed to effectuate its purpose.~~

~~2. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, carrying, ownership, transportation, storage, registration and licensing of firearms, firearm accessories and ammunition in Nevada and to define such terms. No town may infringe upon those rights and powers.~~

~~3. A town board may proscribe by ordinance or regulation the unsafe discharge of firearms.~~

~~4. Any ordinance or regulation which is inconsistent with this section or which is designed to restrict or prohibit the sale, purchase, transfer, manufacture or display of firearms, firearm accessories or ammunition that is otherwise lawful under the laws of this State is null and void, and any official action taken by an employee or agent of a town in violation of this section is void.~~

~~5. A town board shall repeal any ordinance or regulation described in subsection 4, and any such ordinance or regulation that is posted within the town must be removed.~~

~~6. A town board shall cause to be destroyed any ownership records of firearms owned by private persons which are kept or maintained by the town or any town agency, board or commission, including, without limitation, any law enforcement agency, for the purposes of compliance with any ordinance or regulation that is inconsistent with this section. The provisions of this subsection do not apply to the ownership records of firearms purchased and owned by any political subdivision of this State.~~

~~7. Any person who is adversely affected by the enforcement of an ordinance or regulation that violates this section on or after October 1, 2015, may file suit in the appropriate court for declaratory and injunctive relief and damages attributable to the violation. Notwithstanding any other provision of law, such a person is entitled to:~~

~~(a) Reimbursement of actual damages, reasonable attorney's fees and costs which the person has incurred if, within 30 days after the person commenced the action but before a final determination has been issued by the court, the town board repeals the ordinance or regulation that violates this section.~~

~~(b) Liquidated damages in an amount equal to two times the actual damages, reasonable attorney's fees and costs incurred by the person if, more than 30 days after the person commenced the action but before a final determination has been issued by the court, the town board repeals the ordinance or regulation that violates this section.~~

~~(c) Liquidated damages in an amount equal to three times the actual damages, reasonable attorney's fees and costs incurred by the person if the court makes a final determination in favor of the person.~~

~~8. This section must not be construed to prevent:~~

~~(a) A law enforcement agency or correctional institution from promulgating and enforcing its own rules pertaining to firearms, firearm accessories or ammunition that are issued to or used by peace officers in the course of their official duties.~~

~~(b) A court or administrative law judge from hearing and resolving a case or controversy or issuing an opinion or order on a matter within its jurisdiction.~~

~~(c) A public employer from regulating or prohibiting the carrying or possession of firearms, firearm accessories or ammunition during or in the course of an employee's official duties.~~

~~(d) The enactment or enforcement of a town zoning or business ordinance which is generally applicable to businesses within the town and thereby affects~~

~~a firearms business within the town, including, without limitation, an indoor or outdoor shooting range.~~

~~(e) A town from enacting and enforcing rules for the operation and use of any firearm range owned and operated by the town.~~

~~(f) A political subdivision from sponsoring or conducting a firearm related competition or educational or cultural program and enacting and enforcing rules for participation in or attendance at any such competition or program.~~

~~(g) A political subdivision or any official thereof with appropriate authority from enforcing any statute of this State.~~

~~9. As used in this section:~~

~~(a) "Ammunition" includes, without limitation, fixed cartridge ammunition and the individual components thereof, shotgun shells and the individual components thereof, projectiles for muzzle-loading firearms and any propellant used in firearms or ammunition.~~

~~(b) "Firearm" includes, without limitation, a pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, muzzle-loading firearm or any device which is designed to, able to or able to be readily converted to expel a projectile through the barrel by the action of an explosive, other form of combustion or expanding gases.~~

~~(c) "Firearm accessories" means:~~

~~(1) Devices specifically designed or adapted to enable the wearing or carrying of a firearm or the storing in or mounting on a conveyance of a firearm; or~~

~~(2) Attachments or devices specifically designed or adapted to be inserted into or affixed on a firearm to enable, alter or improve the functioning or capability of the firearm.~~

~~(d) "Person" includes, without limitation:~~

~~(1) Any person who has standing to bring or maintain an action concerning this section pursuant to the laws of this State.~~

~~(2) Any person who:~~

~~(I) Can legally possess a firearm under state and federal law;~~

~~(II) Owns, possesses, stores, transports, carries or transfers firearms, ammunition or ammunition components within a town; and~~

~~(III) Is subject to the town ordinance or regulation at issue.~~

~~(3) A membership organization whose members include a person described in subparagraphs (1) and (2) and which is dedicated in whole or in part to protecting the legal, civil or constitutional rights of its members.~~

~~(e) "Political subdivision" includes, without limitation, a state agency, county, city, town or school district.~~

~~(f) "Public employer" has the meaning ascribed to it in NRS 286.070.]~~

Senator Cannizzaro moved the adoption of the amendment.

Remarks by Senator Cannizzaro.

Amendment No. 1027 to Senate Bill No. 291 does the following. It deletes sections of the original bill that revise the Statewide preemption of a local government's ability to regulate firearms. Sections 2 through 22 establish procedures for the issuance of *ex parte* or extended orders

when a person poses a risk to personal injury to himself or herself or another person under certain circumstances. Sections 4 through 9 set forth certain definitions relating to these extended orders.

Section 10 prescribes acts and conduct which constitute high-risk behavior for the purpose of the issuance of these orders. Section 11 authorizes a family, or household member, or a law enforcement officer to file a verified application to obtain an *ex parte* or extended order against a person who poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm.

Section 12 requires a court to issue an *ex parte* order pursuant to a verified application if the court finds, by a preponderance of the evidence, that 1) a person poses an eminent risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring a firearm; 2) the person has engaged in high-risk behavior, and 3) less restrictive options have been exhausted or were not effective. Section 13 requires a court to issue an extended order pursuant to a verified application if the court finds, by clear and convincing evidence, that 1) a person poses a risk of causing personal injury to himself or herself or another person by possessing or having under his or her custody or control or by purchasing or otherwise acquiring any firearm; 2) the person has engaged in high-risk behavior, and 3) less obstructive options have been exhausted or were not effective.

Section 21 provides that a person who files a verified application for such an order, which he or she knows, or has reason to know, is false or misleading or with the intent to harass the adverse party, is guilty of a misdemeanor. Section 14 requires the adverse party against whom an *ex parte* or an extended order is issued, to surrender any firearm in his or her possession or under his or her custody or control and prohibits the party from possessing or having under his or her custody or control any firearm while the order is in effect.

Sections 15 through 18 establish additional procedures related to the issuance and enforcement of such *ex parte* and extended orders and the surrender and return of the firearms from the adverse party. Section 19 of this bill provides the orders issued pursuant to this bill are effective as follows: for an *ex parte* order, a period of 7 days, and for an extended order, a period of 1 year.

Section 22 provides for a person who violates an *ex parte* or an extended order is guilty of a misdemeanor. Section 24 of this bill adds a felony committed in violation of an *ex parte* or extended order as defined in this bill to the list of violations which result in additional penalty.

Section 25 contains the provisions concerning bumpstocks, which were part of the original bill. Section 27 contains the original provisions of the bill reducing the allowable blood/alcohol concentration may be present in order for a person to legally be in possession of a firearm. Section 28 makes it a misdemeanor to negligently store or leave a firearm at a location under someone's control if a person knows or has reason to know that there is a substantial risk that a child, who is otherwise prohibited from handling or possessing or controlling a firearm, may obtain such a firearm and such negligence storage causes the child or another person to be injured.

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

Assembly Bill No. 297.
Bill read second time and ordered to third reading.

Assembly Bill No. 331.
Bill read second time and ordered to third reading.

Assembly Bill No. 383.
Bill read second time and ordered to third reading.

Assembly Bill No. 466.
Bill read second time and ordered to third reading.

Assembly Bill No. 476.
Bill read second time and ordered to third reading.

Assembly Bill No. 537.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 209.
Bill read third time.
The following amendment was proposed by the Committee on Finance:
Amendment No. 1037.
SUMMARY—Revises provisions relating to hemp. (BDR 49-584)

AN ACT relating to hemp; replacing the term "industrial hemp" with the term "hemp" and revising the definition thereof; requiring the ~~[State]~~ Department of ~~[Agriculture]~~ Health and Human Services to adopt regulations requiring the testing and labeling of ~~[a commodity or product]~~ certain commodities and products made using hemp and certain similar products which are intended for human ~~[or animal]~~ consumption; prohibiting a person from selling or offering to sell such commodities or products unless the commodities or products satisfy certain standards relating to testing and labeling; authorizing the retesting of a crop of hemp or a commodity or product made using hemp that has failed certain tests prescribed by the State Department ~~[,]~~ of Agriculture; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the growing and cultivation of industrial hemp for purposes relating to research and the growing and handling of industrial hemp and the production of agricultural hemp seed by persons registered with the State Department of Agriculture. (Chapter 557 of NRS) On December 20, 2018, the President of the United States signed the Agricultural Improvement Act of 2018 into law. Section 10113 of the Act authorizes the production of hemp under the primary jurisdiction of a state or tribal government if the state or tribal government submits a plan to the United States Secretary of Agriculture that satisfies certain requirements. (Public Law 115-334) Because federal law now refers to plants of the genus Cannabis sativa L. with a THC concentration of not more than 0.3 percent as "hemp" rather than "industrial hemp," sections 1-17 of this bill revise various sections of state law to use the term "hemp" for this plant and its derivatives.

Existing law authorizes the State Department of Agriculture to adopt certain regulations relating to the testing of crops of industrial hemp and commodities and products made using industrial hemp by an independent testing laboratory. (NRS 557.270) Sections 12 and 13.5 of this bill divide the responsibility for the adoption of regulations relating to the testing of hemp and commodities and products made using hemp between the State Department of Agriculture and the Department of Health and Human Services. Section 13.5 of this bill authorizes the Department of Health and Human Services to adopt regulations

relating to the testing and labeling of commodities and products containing hemp and certain other products containing cannabidiol that are intended for human consumption. Section 12 of this bill authorizes the State Department of Agriculture to adopt regulations relating to the testing of all other hemp and all other commodities and products made using hemp.

Existing law authorizes an institution of higher education or the State Department of Agriculture to grow or cultivate industrial hemp for certain purposes related to research. (NRS 557.070) Section 4 of this bill requires the ~~[Department]~~ State Board of Agriculture to adopt regulations requiring that any agricultural products ~~[or commodities]~~ made using hemp grown for such purposes which are intended for human ~~[or animal]~~ consumption must be tested and labeled in accordance with regulations adopted by the Department for hemp grown for any other purpose.

Existing law prohibits a handler of industrial hemp from selling a commodity or product made using industrial hemp which is intended for human consumption unless the product has been tested in accordance with protocols and procedures established by the State Department ~~[.]~~ of Agriculture. (NRS 557.270) ~~[Section 12 of this bill requires the Department, in consultation with the Department of Health and Human Services, to adopt regulations requiring the testing of commodities or products made using hemp and certain other products containing cannabidiol which are intended for human or animal consumption. Section 12 requires such regulations to require that such commodities or products are not labeled in a manner that is false or misleading.]~~ Section 13.5 prohibits a person from selling or offering to sell such commodities or products unless the commodities or products satisfy the testing and labeling requirements set forth by the Department of Health and Human Services.

Existing law authorizes the State Department of Agriculture to adopt certain regulations relating to the testing of crops of industrial hemp and commodities and products made using industrial hemp by an independent testing laboratory. (NRS 557.270) Section 12 provides that a grower, handler or producer whose crop, commodity or product has failed a test prescribed by the State Department of Agriculture is authorized to submit that crop, commodity or product for retesting.

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

Section 1. NRS 557.020 is hereby amended to read as follows:

557.020 "Agricultural pilot program" means a program to study the growth, cultivation or marketing of ~~[industrial]~~ hemp.

Sec. 2. NRS 557.040 is hereby amended to read as follows:

557.040 ~~["Industrial hemp"]~~ *"Hemp"* means the plant Cannabis sativa L. and any part of such plant, *including, without limitation, the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers,* whether growing or not, with a THC concentration ~~[of not more than~~

~~0.3 percent on a dry weight basis.]~~ *that does not exceed the maximum THC concentration established by federal law for hemp.*

Sec. 3. NRS 557.070 is hereby amended to read as follows:

557.070 1. An institution of higher education or the Department may grow or cultivate ~~[industrial]~~ hemp if the ~~[industrial]~~ hemp is grown or cultivated for:

(a) Purposes of research conducted under an agricultural pilot program; or

(b) Other agricultural or academic research.

2. Each site used for growing or cultivating ~~[industrial]~~ hemp in this State must be certified by and registered with the Department before growing or cultivating ~~[industrial]~~ hemp.

Sec. 4. NRS 557.080 is hereby amended to read as follows:

557.080 *1.* The State Board of Agriculture may adopt regulations to carry out the provisions of NRS 557.010 to 557.080, inclusive, including, without limitation, regulations necessary to:

~~[1.]~~ *(a)* Establish and carry out an agricultural pilot program;

~~[2.]~~ *(b)* Provide for the certification and registration of sites used for growing or cultivating ~~[industrial]~~ hemp; and

~~[3.]~~ *(c)* Restrict or prohibit the use or processing of ~~[industrial]~~ hemp for the creation, manufacture, sale or use of cannabidiol or any compound, salt, derivative, mixture or preparation of cannabidiol.

2. If the regulations adopted pursuant to subsection 1 do not prohibit the use or processing of hemp for the ~~[creation, manufacture,]~~ sale or use of ~~[commodities or]~~ agricultural products ~~[made using hemp]~~ which are intended for human ~~[or animal]~~ consumption, the State Board of Agriculture shall adopt regulations requiring the testing and labeling of ~~[any commodity or product made using hemp grown for the purposes set forth in NRS 557.070 which is intended for human or animal consumption]~~ such products in accordance with the regulations adopted by the Department pursuant to NRS 557.270.

3. As used in this section ~~[, "intended]~~ :

(a) "Agricultural product" has the meaning ascribed to it in NRS 576.0117.

(b) "Intended for human ~~[or animal]~~ consumption" has the meaning ascribed to it in ~~[NRS 557.270.]~~ section 13.5 of this act.

Sec. 5. NRS 557.120 is hereby amended to read as follows:

557.120 "Crop" means all ~~[industrial]~~ hemp grown by a grower.

Sec. 6. NRS 557.140 is hereby amended to read as follows:

557.140 "Grower" means a person who is registered by the Department and produces ~~[industrial]~~ hemp.

Sec. 7. NRS 557.150 is hereby amended to read as follows:

557.150 "Handler" means a person who is registered by the Department pursuant to NRS 557.100 to 557.290, inclusive, and receives ~~[industrial]~~ hemp for processing into commodities, products or agricultural hemp seed.

Sec. 8. NRS 557.160 is hereby amended to read as follows:

557.160 1. ~~["Industrial hemp"]~~ *"Hemp"* means ~~[:~~

~~(a) Any~~ *any* plant of the genus Cannabis *sativa L.* and any part of such a plant ~~[other than a seed,]~~ *, including, without limitation, the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers,* whether growing or not, with a THC concentration ~~[of not more than 0.3 percent on a dry weight basis .~~ ; and

~~(b) A seed of any plant of the genus Cannabis that:~~

~~(1) Is part of a crop;~~

~~(2) Is retained by a grower for future planting;~~

~~(3) Is agricultural hemp seed;~~

~~(4) Is intended for processing into or for use as agricultural hemp seed; or~~

~~(5) Has been processed in a manner that renders it incapable of germination.]~~ *that does not exceed the maximum THC concentration established by federal law for hemp.*

2. ~~["Industrial hemp"]~~ *"Hemp"* does not include any commodity or product made using ~~[industrial]~~ hemp.

Sec. 9. NRS 557.190 is hereby amended to read as follows:

557.190 The provisions of NRS 557.100 to 557.290, inclusive, do not apply to the Department or an institution of higher education which grows or cultivates ~~[industrial]~~ hemp pursuant to NRS 557.010 to 557.080, inclusive.

Sec. 10. NRS 557.200 is hereby amended to read as follows:

557.200 1. A person shall not grow or handle ~~[industrial]~~ hemp or produce agricultural hemp seed unless the person is registered with the Department as a grower, handler or producer, as applicable.

2. A person who wishes to grow or handle ~~[industrial]~~ hemp must register with the Department as a grower or handler, as applicable.

3. A person who wishes to produce agricultural hemp seed must register with the Department as a producer unless the person is:

(a) A grower registered pursuant to subsection 2 who retains agricultural hemp seed solely pursuant to subsection 3 of NRS 557.250; or

(b) A grower or handler registered pursuant to subsection 2 who processes seeds of any plant of the genus Cannabis which are incapable of germination into commodities or products.

➥ A person may not register as a producer unless the person is also registered as a grower or handler.

4. A person who wishes to register with the Department as a grower, handler or producer must submit to the Department the fee established pursuant to subsection 7 and an application, on a form prescribed by the Department, which includes:

(a) The name and address of the applicant;

(b) The name and address of the applicant's business in which ~~[industrial]~~ hemp or agricultural hemp seed will be grown, handled or produced, if different than that of the applicant; and

(c) Such other information as the Department may require by regulation.

5. Registration as a grower, handler or producer expires on December 31 of each year and may be renewed upon submission of an application for renewal containing such information as the Department may require by regulation.

6. Registration as a grower, handler or producer is not transferable. If a grower, handler or producer changes its business name or the ownership of the grower, handler or producer changes, the grower, handler or producer must obtain a new registration pursuant to NRS 557.100 to 557.290, inclusive.

7. The Department shall establish by regulation fees for the issuance and renewal of registration as a grower, handler or producer in an amount necessary to cover the costs of carrying out NRS 557.100 to 557.290, inclusive.

Sec. 11. NRS 557.250 is hereby amended to read as follows:

557.250 1. Each grower shall provide the Department with a description of the property on which the crop of the grower is or will be located. Such a description must be in a manner prescribed by the Department and include, without limitation, global positioning system coordinates.

2. A grower may use any method for the propagation of ~~[industrial]~~ hemp to produce ~~[industrial]~~ hemp, including, without limitation, planting seeds or starts, using clones or cuttings or cultivating ~~[industrial]~~ hemp in a greenhouse.

3. A grower may retain agricultural hemp seed for the purpose of propagating ~~[industrial]~~ hemp in future years.

Sec. 12. NRS 557.270 is hereby amended to read as follows:

557.270 1. A grower, handler or producer may submit ~~[industrial]~~ hemp or a commodity or product made using ~~[industrial]~~ hemp *, other than a commodity or product described in subsection 1 of section 13.5 of this act,* to an independent testing laboratory for testing pursuant to this section and an independent testing laboratory may perform such testing.

2. ~~[A handler may not sell a commodity or product made using industrial hemp which is intended for human or animal consumption unless the commodity or product has been submitted to an independent testing laboratory for testing and the independent testing laboratory has confirmed that the commodity or product satisfies the standards established by the Department for the content and quality of industrial hemp.~~

~~*3. The Department, in consultation with the Department of Health and Human Services, shall adopt regulations requiring the testing and labeling of:*~~

~~*(a) Any commodity or product made using hemp which is intended for human or animal consumption; and*~~

~~*(b) Any other commodity or product that purports to contain cannabidiol with a THC concentration of not more 0.3 percent which is intended for human or animal consumption.*~~

~~*4. The regulations adopted pursuant to subsection 3 must:*~~

~~*(a) Set forth protocols and procedures for the testing of the commodities and products described in subsection 3; and*~~

~~*(b) Require that any commodity or product described in subsection 3 is labeled in a manner that is not false or misleading in accordance with the applicable provisions of chapter 585 of NRS.*~~

~~*5.]*~~ The Department shall adopt regulations establishing protocols and procedures for the testing of *hemp and* commodities and products ~~[made using industrial hemp,]~~ *described in subsection 1,* including, without limitation, determining appropriate standards for sampling and for the size of batches for testing.

~~[4. 6.]~~ *3.* The Department may adopt regulations requiring the submission of a sample of a crop of ~~[industrial]~~ hemp by a grower to an independent testing laboratory *approved by the Department* to determine whether the crop has a THC concentration ~~[of not more than 0.3 percent on a dry weight basis.]~~ *that does not exceed the maximum THC concentration established by federal law for hemp.* The regulations may include, without limitation:

(a) Protocols and procedures for the testing of a crop, including, without limitation, determining appropriate standards for sampling and for the size of batches for testing; and

(b) A requirement that an independent testing laboratory provide the results of the testing directly to the Department in a manner prescribed by the Department.

~~[5. 7.]~~ *4. Except as otherwise provided by federal law, a grower, handler or producer whose crop, hemp, commodity or product fails a test prescribed by the Department pursuant to this section may submit that same crop, hemp, commodity or product for retesting. The Department shall adopt regulations establishing protocols and procedures for such retesting.*

~~*[8.]*~~ *5.* As used in this section ~~[:~~

~~(a) "Independent]~~ *, "independent* testing laboratory" means a facility certified as an independent testing laboratory pursuant to NRS 453A.368.

~~[(b) "Intended for human or animal consumption" means intended for ingestion or inhalation by a human or *animal or* for topical application to the skin or hair of a human. or *animal.]*~~

Sec. 13. NRS 557.290 is hereby amended to read as follows:

557.290 Any person who grows or handles ~~[industrial]~~ hemp or produces agricultural hemp seed without being registered with the Department pursuant to NRS 557.200 is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than $1,000, or by both fine and imprisonment. The prosecuting attorney and the Department may recover the costs of the proceeding, including investigative costs and attorney's fees, against a person convicted of a misdemeanor pursuant to this section.

Sec. 13.5. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Unless federal law or regulation otherwise requires, a person shall not sell or offer to sell any commodity or product containing hemp which is

intended for human consumption or any other commodity or product that purports to contain cannabidiol with a THC concentration that does not exceed the maximum THC concentration established by federal law for hemp unless such a commodity or product:

(a) Has been tested by an independent testing laboratory and meets the standards established by regulation of the Department pursuant to subsection 3; and

(b) Is labeled in accordance with the regulations adopted by the Department pursuant to subsection 3.

2. A person who produces or offers for sale a commodity or product described in subsection 1 may submit such a commodity or product to an independent testing laboratory for testing pursuant to this section and an independent testing laboratory may perform such testing.

3. The Department shall adopt regulations requiring the testing and labeling of any commodity or product described in subsection 1. Such regulations must:

(a) Set forth protocols and procedures for the testing of the commodities and products described in subsection 1; and

(b) Require that any commodity or product described in subsection 1 is labeled in a manner that is not false or misleading in accordance with the applicable provisions of chapters 446 and 585 of NRS.

4. As used in this section:

(a) "Hemp" has the meaning ascribed to it in NRS 557.160.

(b) "Independent testing laboratory" means a facility certified as an independent testing laboratory pursuant to NRS 453A.368.

(c) "Intended for human consumption" means intended for ingestion or inhalation by a human or for topical application to the skin or hair of a human.

(d) "THC" has the meaning ascribed to it in NRS 453A.155.

Sec. 14. NRS 453.096 is hereby amended to read as follows:

453.096 1. "Marijuana" means:

(a) All parts of any plant of the genus Cannabis, whether growing or not;

(b) The seeds thereof;

(c) The resin extracted from any part of the plant, including concentrated cannabis; and

(d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. "Marijuana" does not include:

(a) ~~[Industrial hemp,]~~ *Hemp,* as defined in NRS 557.040, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS; or

(b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Sec. 15. NRS 453.339 is hereby amended to read as follows:

453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of marijuana or concentrated cannabis shall be punished, if the quantity involved:

(a) Is 50 pounds or more, but less than 1,000 pounds, of marijuana or 1 pound or more, but less than 20 pounds, of concentrated cannabis, for a category C felony as provided in NRS 193.130 and by a fine of not more than $25,000.

(b) Is 1,000 pounds or more, but less than 5,000 pounds, of marijuana or 20 pounds or more, but less than 100 pounds, of concentrated cannabis, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than $50,000.

(c) Is 5,000 pounds or more of marijuana or 100 pounds or more of concentrated cannabis, for a category A felony by imprisonment in the state prison:

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,

➥ and by a fine of not more than $200,000.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not, except for ~~[industrial]~~ hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to the provisions of chapter 557 of NRS. The term does not include concentrated cannabis.

(b) The weight of marijuana or concentrated cannabis is its weight when seized or as soon as practicable thereafter. If marijuana and concentrated cannabis are seized together, each must be weighed separately and treated as separate substances.

Sec. 16. NRS 453A.352 is hereby amended to read as follows:

453A.352 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of NRS 453A.354 and 453A.356.

2. Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

➥ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards;

(b) Assist patients who possess valid registry identification cards or letters of approval by way of those patients' designated primary caregivers; and

(c) Return for a refund marijuana, edible marijuana products or marijuana-infused products to the medical marijuana establishment from which the marijuana, edible marijuana products or marijuana-infused products were acquired.

➥ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card or letter of approval if he or she qualifies for nonresident reciprocity pursuant to NRS 453A.364.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Department during the registration process for the cultivation facility. Such an enclosed, locked facility must be accessible only by medical marijuana establishment agents who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, or the designated primary caregiver of a person who holds a letter of approval may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the Department at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a

designee thereof, available and present for any inspection by the Department of the establishment.

8. A dual licensee, as defined in NRS 453D.030:

(a) Shall comply with the regulations adopted by the Department pursuant to paragraph (k) of subsection 1 of NRS 453D.200 with respect to the medical marijuana establishment operated by the dual licensee; and

(b) May, to the extent authorized by such regulations, combine the location or operations of the medical marijuana establishment operated by the dual licensee with the marijuana establishment, as defined in NRS 453D.030, operated by the dual licensee.

9. Each medical marijuana establishment shall install a video monitoring system which must, at a minimum:

(a) Allow for the transmission and storage, by digital or analog means, of a video feed which displays the interior and exterior of the medical marijuana establishment; and

(b) Be capable of being accessed remotely by a law enforcement agency in real-time upon request.

10. A medical marijuana establishment shall not dispense or otherwise sell marijuana, edible marijuana products or marijuana-infused products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the medical marijuana establishment.

11. If a medical marijuana establishment is operated by a dual licensee, as defined in NRS 453D.030, any provision of this section which is determined by the Department to be unreasonably impracticable pursuant to subsection 9 of NRS 453A.370 does not apply to the medical marijuana establishment.

12. A facility for the production of edible marijuana products or marijuana-infused products and a medical marijuana dispensary may acquire ~~[industrial]~~ hemp, as defined in NRS 557.160, from a grower or handler registered by the State Department of Agriculture pursuant to NRS 557.100 to 557.290, inclusive. A facility for the production of edible marijuana products or marijuana-infused products may use ~~[industrial]~~ hemp to manufacture edible marijuana products and marijuana-infused products. A medical marijuana dispensary may dispense ~~[industrial]~~ hemp and edible marijuana products and marijuana-infused products manufactured using ~~[industrial]~~ hemp.

Sec. 17. NRS 453A.370 is hereby amended to read as follows:

453A.370 The Department shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 453A.320 to 453A.370, inclusive. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to NRS 453A.322 and 453A.332.

2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards and letters of approval.

(b) Minimum requirements for the oversight of medical marijuana establishments.

(c) Minimum requirements for the keeping of records by medical marijuana establishments.

(d) Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.

(e) Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Department.

(f) Procedures pursuant to which a medical marijuana dispensary will be notified by the Department if a patient who holds a valid registry identification card or letter of approval has chosen the dispensary as his or her designated medical marijuana dispensary, as described in NRS 453A.366.

(g) Minimum requirements for ~~[industrial]~~ hemp, as defined in NRS 557.160, which is used by a facility for the production of edible marijuana products or marijuana-infused products to manufacture edible marijuana products or marijuana-infused products or dispensed by a medical marijuana dispensary.

3. Establish circumstances and procedures pursuant to which the maximum fees set forth in NRS 453A.344 may be reduced over time to ensure that the fees imposed pursuant to NRS 453A.344 are, insofar as may be practicable, revenue neutral.

4. Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, including, without limitation, a designated primary caregiver, in any one 14-day period. Such an amount must not exceed the limits set forth in NRS 453A.200.

5. As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.

6. In cooperation with the applicable professional licensing boards, establish a system to:

(a) Register and track attending providers of health care who advise their patients that the medical use of marijuana may mitigate the symptoms or effects of the patient's medical condition;

(b) Insofar as is possible, track and quantify the number of times an attending provider of health care described in paragraph (a) makes such an advisement; and

(c) Provide for the progressive discipline of attending providers of health care who advise the medical use of marijuana at a rate at which the Department, in consultation with the Division, and applicable board determine and agree to be unreasonably high.

7. Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer or provide labor as a medical marijuana establishment agent.

8. Provide for the maintenance of a log by the Department, in consultation with the Division, of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200. The Department shall ensure that the contents of the log are available for verification by law enforcement personnel 24 hours a day.

9. Determine whether any provision of NRS 453A.350 or 453A.352 would make the operation of a medical marijuana establishment or marijuana establishment, as defined in NRS 453D.030, by a dual licensee, as defined in NRS 453D.030, unreasonably impracticable, as defined in NRS 453D.030.

10. Address such other matters as may assist in implementing the program of dispensation contemplated by NRS 453A.320 to 453A.370, inclusive.

Sec. 18. This act becomes effective on July 1, 2020.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1037 amends Senate Bill No. 209 to clarify that the State Department of Agriculture is allowed to adopt regulations regarding the testing and labeling of hemp and hemp products that are not intended for human consumption while the State Department of Health and Human Services is allowed to adopt regulations regarding the testing and labeling of such products that are intended for human consumption. In addition, the amendment changes the maximum allowable THC concentration in hemp from 0.3 percent to an amount that does not exceed the maximum THC concentration established by federal law for hemp. The amendment establishes independent laboratories tasked to determine the THC concentration of a hemp crop or product must be approved by the Department of Agriculture.

Conflict of interest declared by Senator Ohrenschall.

Amendment adopted.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 209 revises State law to change the maximum allowable THC concentration in hemp from 0.3 percent to a threshold that does not exceed the maximum allowable THC concentration established by federal law. Senate Bill No. 209 allows the State Department of Agriculture to adopt regulations regarding the testing, manufacturing and labeling of unprocessed hemp, hemp products and hemp commodities. In addition, the bill, as allows the Department of Health and Human Services to adopt similar regulations regarding processed hemp, hemp products and hemp commodities that are intended for human consumption.

Conflict of interest declared by Senator Ohrenschall.

Roll call on Senate Bill No. 209:
YEAS—19.
NAYS—None.
NOT VOTING—Ohrenschall.
EXCUSED—Washington.

Senate Bill No. 209 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 263.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1036.

SUMMARY—Revises provisions relating to the regulation and taxation of certain vapor products, alternative nicotine products and tobacco products. (BDR 32-700)

AN ACT relating to public health; requiring that certain vapor products and alternative nicotine products be taxed and regulated as other tobacco products; revising provisions related to the areas in which smoking is prohibited; revising provisions pertaining to the sale or distribution of cigarettes, cigarette paper, tobacco, products made or derived from tobacco, vapor products and alternative nicotine products to persons under the age of 18 years; providing penalties; making ~~[an appropriation;]~~ appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Taxation to regulate and collect a tax on cigarettes and other tobacco products. (Chapter 370 of NRS) Sections 1.7 and 2 of this bill provide that certain alternative nicotine products and vapor products, including electronic cigarettes, cigars, cigarillos, pipes, hookahs, vape pens and similar products or devices and their components, are regulated and taxed as other tobacco products. Because this bill regulates and taxes such vapor products as other tobacco products, wholesale and retail dealers of those vapor products would be required to obtain a license from the Department and wholesale dealers of those vapor products would be required to pay a tax of 30 percent of the wholesale price of those products. (NRS 370.445, 370.450)

The Nevada Clean Indoor Air Act was proposed by an initiative petition and approved by the voters at the 2006 General Election. The Act generally prohibits smoking tobacco within indoor places of employment, within school buildings and on school property, but allows smoking tobacco in certain areas or establishments. (NRS 202.2483) Section 7.1 of this bill defines "smoking" and expressly applies the Nevada Clean Indoor Air Act to the use of an electronic smoking device.

Existing law prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper, tobacco of any description, products made or

derived from tobacco, vapor products or alternative nicotine products to any person under the age of 18 years. (NRS 202.2493) For the purposes of this prohibition, existing law defines "vapor products" to include only products containing nicotine that produce a vapor from nicotine in a solution or other form. (NRS 202.2485) Section 7.3 of this bill extends this definition to include products containing other substances, the use or inhalation of which simulates smoking, and certain associated devices and components.

Under existing law, a person who sells, distributes or offers to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products to a person under the age of 18 years is punished by a criminal fine of not more than $500 and a civil penalty of not more than $500. (NRS 202.2493) Sections 1 and 7.5 of this bill: (1) remove the criminal penalties for violating this prohibition and, instead, authorize the Department to impose a civil penalty on a person who sells, distributes or offers to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products and alternative nicotine products to a person under the age of 18 years; (2) revise the amount of such civil penalties; (3) authorize the imposition of penalties on a licensee whose employee or agent violates this prohibition; and (4) establishes the procedure for the issuance of a notice of infraction to a person who violates this prohibition and the requesting of a hearing before the Department. Sections 1.3, 7.4 and 7.9 make conforming changes related to the removal of criminal penalties and the authorization for the Department to impose civil penalties.

Existing law prohibits a person from knowingly selling or distributing cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco to a child under the age of 18 years through the use of the Internet. Existing law further requires a person who sells or distributes such products through the use of the Internet to adopt a policy to prevent a child under the age of 18 years from obtaining such products from the person through the use of the Internet, which policy is required to include: (1) a method to ensure that the person who delivers the products to obtain the signature of a person who is over the age of 18 years; (2) a requirement that the packaging or wrapping of the items when they are shipped is clearly marked with the words "cigarettes" or the words "tobacco products;" and (3) a requirement to comply with certain federal law relating to the remote sale of cigarettes and certain tobacco products. (NRS 202.24935) Section 7.7 of this bill removes the requirement for such a policy. Instead, section 7.7 requires a person who sells or distributes cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products through a computer network, telephonic network or other electronic network to: (1) ensure that the packaging in which the items are shipped is labeled "cigarettes" or "tobacco products;" and (2) use certain age verification procedures.

Section 14.5 of this bill makes an appropriation to the Department of Health and Human Services for programs to control and prevent the use of tobacco in the amount of $2.5 million for Fiscal Year 2019-2020 and $2.5 million for Fiscal Year 2020-2021. Section 14.7 of this bill makes an appropriation to the Department of Taxation to carry out the duties imposed by this bill on the Department of Taxation.

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 and 3, a person shall not sell, distribute or offer to sell cigarettes, cigarette paper or other tobacco products to any child under the age of 18 years.

2. A person shall be deemed to be in compliance with the provisions of subsection 1 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper or other tobacco products, the person:

(a) Demands that the other person present a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older;

(b) Is presented a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license, permanent resident card, tribal identification card or other written or documentary evidence presented by the other person.

3. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport cigarettes, cigarette paper or other tobacco products, in the course of the child's lawful employment, provide cigarettes, cigarette paper or other tobacco products to the child.

4. A person who violates this section is liable for a civil penalty of:

(a) For the first violation within a 24-month period, $100.

(b) For the second violation within a 24-month period, $250.

(c) For the third and any subsequent violation within a 24-month period, $500.

5. If an employee or agent of a licensee has violated this section:

(a) For the first and second violation within a 24-month period at the same premises, the licensee must be issued a warning.

(b) For the third violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of $500.

(c) For the fourth violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of $1,250.

(d) For the fifth and any subsequent violation within a 24-month period at the same premises, the licensee is liable for a civil penalty of $2,500.

6. A peace officer or any person performing an inspection pursuant to NRS 202.2496 may issue a notice of infraction for a violation of this section. A notice of infraction must be issued on a form prescribed by the Department and must contain:

(a) The location at which the violation occurred;

(b) The date and time of the violation;

(c) The name of the establishment at which the violation occurred;

(d) The signature of the person who issued the notice of infraction;

(e) A copy of the section which allegedly is being violated;

(f) Information advising the person to whom the notice of infraction is issued of the manner in which, and the time within which, the person must submit an answer to the notice of infraction; and

(g) Such other pertinent information as the peace officer or person performing the inspection pursuant to NRS 202.2496 determines is necessary.

7. A notice of infraction issued pursuant to subsection 6 or a facsimile thereof must be filed with the Department and retained by the Department and is deemed to be a public record of matters which are observed pursuant to a duty imposed by law and is prima facie evidence of the facts alleged in the notice.

8. A person to whom a notice of infraction is issued pursuant to subsection 6 shall respond to the notice by:

(a) Admitting the violation stated in the notice and paying to the Department the applicable civil penalty set forth in subsection 4 or 5.

(b) Denying liability for the infraction by notifying the Department and requesting a hearing in the manner indicated on the notice of infraction. Upon receipt of a request for a hearing pursuant to this paragraph, the Department shall provide the person submitting the request an opportunity for a hearing pursuant to chapter 233B of NRS.

9. Any money collected by the Department from a civil penalty pursuant to this section must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2493 and 202.2494.

10. As used in this section, "licensee" means a person who holds a license issued by the Department pursuant to this chapter.

Sec. 1.3. NRS 370.001 is hereby amended to read as follows:

370.001 As used in NRS 370.001 to 370.430, inclusive, and 370.505 to 370.530, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in NRS 370.003 to 370.055, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.7. NRS 370.0318 is hereby amended to read as follows:

370.0318 "Other tobacco product" means any tobacco of any description ~~[or]~~ *, any vapor product, any alternative nicotine product or* any product made from tobacco, other than cigarettes . ~~[, alternative nicotine products and vapor products.]~~

Sec. 2. NRS 370.054 is hereby amended to read as follows:

370.054 "Vapor product":

1. Means any noncombustible product containing nicotine *or any other substance* that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine *or any other substance* in a solution or other form ~~[.]~~ *, the use or inhalation of which simulates smoking.*

2. Includes, without limitation:

(a) An electronic cigarette, cigar, cigarillo *,* ~~[or]~~ pipe *, hookah, or vape pen,* or a similar product or device; and

(b) ~~[A]~~ *The components of such a product or device, whether or not sold separately, including, without limitation,* vapor ~~[cartridge]~~ *cartridges* or other container of nicotine *or any other substance* in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo *,* ~~[or]~~ pipe *, hookah, or vape pen,* or a similar product or device ~~[.]~~ *, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices. As used in this paragraph, "component" means a product intended primarily or exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device.*

3. Does not include any product ~~[regulated]~~ *:*

(a) Regulated by the United States Food and Drug Administration pursuant to subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

(b) Subject to the excise tax on marijuana or marijuana products pursuant to NRS 372A.200 to 372A.380, inclusive.

(c) Purchased by a person who holds a current, valid registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS.

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. 7.1. NRS 202.2483 is hereby amended to read as follows:

202.2483 1. Except as otherwise provided in subsection 3, smoking ~~[tobacco]~~ in any form is prohibited within indoor places of employment including, but not limited to, the following:

(a) Child care facilities;

(b) Movie theatres;

(c) Video arcades;

(d) Government buildings and public places;

(e) Malls and retail establishments;

(f) All areas of grocery stores; and

(g) All indoor areas within restaurants.

2. Without exception, smoking ~~[tobacco]~~ in any form is prohibited within school buildings and on school property.

3. Smoking ~~[tobacco]~~ is not prohibited in:

(a) Areas within casinos where loitering by minors is already prohibited by state law pursuant to NRS 463.350;

(b) Completely enclosed areas with stand-alone bars, taverns and saloons in which patrons under 21 years of age are prohibited from entering;

(c) Age-restricted stand-alone bars, taverns and saloons;

(d) Strip clubs or brothels;

(e) Retail tobacco stores;

(f) The area of a convention facility in which a meeting or trade show is being held, during the time the meeting or trade show is occurring, if the meeting or trade show:

(1) Is not open to the public;

(2) Is being produced or organized by a business relating to tobacco or a professional association for convenience stores; and

(3) Involves the display of tobacco products; and

(g) Private residences, including private residences which may serve as an office workplace, except if used as a child care, an adult day care or a health care facility.

4. A supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon shall not allow a person who is under 21 years of age to loiter in an age-restricted stand-alone bar, tavern or saloon or an area of a stand-alone bar, tavern or saloon where smoking is allowed pursuant to this section. A person who violates the provisions of this subsection is guilty of a misdemeanor.

5. If a supervisor on duty or employee of an age-restricted stand-alone bar, tavern or saloon or a stand-alone bar, tavern or saloon violates the provisions of subsection 4, the age-restricted stand-alone bar, tavern or saloon or stand-alone bar, tavern or saloon is liable for a civil penalty of:

(a) For the first offense, $1,000.

(b) For a second or subsequent offense, $2,000.

6. In any prosecution or other proceeding for a violation of the provisions of subsection 4 or 5, it is no excuse for a supervisor, employee, age-restricted bar, tavern or saloon, or stand-alone bar, tavern or saloon alleged to have committed the violation to plead that a supervisor or employee believed that the person who was permitted to loiter was 21 years of age or older.

7. In areas or establishments where smoking is not prohibited by this section, nothing in state law shall be construed to prohibit the owners of said establishments from voluntarily creating nonsmoking sections or designating the entire establishment as smoke free.

8. Nothing in state law shall be construed to restrict local control or otherwise prohibit a county, city or town from adopting and enforcing local ~~[tobacco]~~ *smoking* control measures that meet or exceed the minimum applicable standards set forth in this section.

9. "No Smoking" signs or the international "No Smoking" symbol shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section. Each public place and place of employment where smoking is prohibited shall post, at every entrance, a conspicuous sign clearly stating that smoking is prohibited. All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited.

10. Health authorities, police officers of cities or towns, sheriffs and their deputies shall, within their respective jurisdictions, enforce the provisions of this section and shall issue citations for violations of this section pursuant to NRS 202.2492 and 202.24925.

11. No person or employer shall retaliate against an employee, applicant or customer for exercising any rights afforded by, or attempts to prosecute a violation of, this section.

12. For the purposes of this section, the following terms have the following definitions:

(a) "Age-restricted stand-alone bar, tavern or saloon" means an establishment:

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;

(3) In which patrons under 21 years of age are prohibited at all times from entering the premises; and

(4) That must be located within:

(I) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplace where smoking is prohibited by this section; or

(II) A completely enclosed area of a larger structure, which may include, without limitation, a strip mall or an airport, provided that indoor windows must remain closed at all times and doors must remain closed when not actively in use.

(b) "Casino" means an entity that contains a building or large room devoted to gambling games or wagering on a variety of events. A casino must possess a nonrestricted gaming license as described in NRS 463.0177 and typically uses the word 'casino' as part of its proper name.

(c) "Child care facility" has the meaning ascribed to it in NRS 441A.030.

(d) "Completely enclosed area" means an area that is enclosed on all sides by any combination of solid walls, windows or doors that extend from the floor to the ceiling.

(e) "Government building" means any building or office space owned or occupied by:

(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System;

(2) The State of Nevada and used for any public purpose; or

(3) Any county, city, school district or other political subdivision of the State and used for any public purpose.

(f) "Health authority" has the meaning ascribed to it in NRS 202.2485.

(g) "Incidental food service or sales" means the service of prepackaged food items including, but not limited to, peanuts, popcorn, chips, pretzels or any other incidental food items that are exempt from food licensing requirements pursuant to subsection 2 of NRS 446.870.

(h) "Place of employment" means any enclosed area under the control of a public or private employer which employees frequent during the course of employment including, but not limited to, work areas, restrooms, hallways, employee lounges, cafeterias, conference and meeting rooms, lobbies and reception areas.

(i) "Public places" means any enclosed areas to which the public is invited or in which the public is permitted.

(j) "Restaurant" means a business which gives or offers for sale food, with or without alcoholic beverages, to the public, guests or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere.

(k) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

(l) "School building" means all buildings on the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(m) "School property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

(n) *"Smoking" means inhaling, exhaling, burning or carrying any liquid or heated cigar, cigarette or pipe or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. The term includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, and the use of any oral smoking device. As used in this paragraph, "electronic smoking device":*

(1) Means any product containing or delivering nicotine, a product made or derived from tobacco or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor or aerosol from the product.

(2) Includes any component part of a product described in subparagraph (1), regardless of whether the component part is sold separately.

(3) Does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 352 et seq.

(o) "Stand-alone bar, tavern or saloon" means an establishment:

(1) Devoted primarily to the sale of alcoholic beverages to be consumed on the premises;

(2) In which food service or sales may or may not be incidental food service or sales, in the discretion of the operator of the establishment;

(3) In which smoke from such establishments does not infiltrate into areas where smoking is prohibited under the provisions of this section; and

(4) That must be housed in either:

(I) A physically independent building that does not share a common entryway or indoor area with a restaurant, public place or any other indoor workplaces where smoking is prohibited by this section; or

(II) A completely enclosed area of a larger structure, such as a strip mall or an airport, provided that indoor windows must remain shut at all times and doors must remain closed when not actively in use.

~~[(o)]~~ *(p)* "Video arcade" has the meaning ascribed to it in paragraph (d) of subsection 3 of NRS 453.3345.

13. Any statute or regulation inconsistent with this section is null and void.

14. The provisions of this section are severable. If any provision of this section or the application thereof is declared by a court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the section as a whole or any provision thereof other than the part declared to be invalid or unconstitutional.

Sec. 7.3. NRS 202.2485 is hereby amended to read as follows:

202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

1. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not include:

(a) A vapor product;

(b) A product made or derived from tobacco; or

(c) Any product regulated by the United States Food and Drug Administration under Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

2. "Distribute" includes furnishing, giving away or providing products made or derived from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale.

3. "Health authority" means the district health officer in a district, or his or her designee, or, if none, the Chief Medical Officer, or his or her designee.

4. "Product made or derived from tobacco" does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

5. "Vapor product":

(a) Means any noncombustible product containing nicotine *or any other substance* that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine *or any other substance*

in a solution or other form ~~[.]~~ *, the use or inhalation of which simulates smoking*.

(b) Includes, without limitation:

(1) An electronic cigarette, cigar, cigarillo , ~~[or]~~ pipe *, hookah or vape pen* or a similar product or device; and

(2) ~~[A]~~ *The components of such a product or device, whether or not sold separately, including, without limitation,* vapor ~~[cartridge]~~ *cartridges* or other container of nicotine *or any other substance* in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo , ~~[or]~~ pipe *, hookah, or vape pen,* or a similar product or device ~~[.]~~ *, atomizers, cartomizers, digital displays, clearomizers, tank systems, flavors, programmable software or other similar products or devices. As used in this subparagraph, "component" means a product or device intended primarily or exclusively to be used with or in an electronic cigarette, cigar, cigarillo, pipe, hookah, or vape pen, or a similar product or device.*

(c) Does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

Sec. 7.4. NRS 202.249 is hereby amended to read as follows:

202.249 1. It is the public policy of the State of Nevada and the purpose of NRS 202.2491, 202.24915 and 202.2492 to place restrictions on the smoking of tobacco in public places to protect human health and safety.

2. The quality of air is declared to be affected with the public interest and NRS 202.2491, 202.24915 and 202.2492 are enacted in the exercise of the police power of this state to protect the health, peace, safety and general welfare of its people.

3. Health authorities, police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2491, 202.24915 and 202.2492. Police officers of cities or towns, sheriffs and their deputies and other peace officers of this state shall, within their respective jurisdictions, enforce the provisions of NRS 202.2493, 202.24935 and 202.2494 ~~[.]~~ *and section 1 of this act.*

4. Except as otherwise provided in subsection 5, an agency, board, commission or political subdivision of this state, including, without limitation, any agency, board, commission or governing body of a local government, shall not impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco or products made or derived from tobacco than are provided by NRS 202.2491, 202.24915, 202.2492, 202.2493, 202.24935 and 202.2494 ~~[.]~~ *and section 1 of this act.*

5. A school district may, with respect to the property, buildings, facilities and vehicles of the school district, impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display or promotion of tobacco or products made or derived from tobacco than are provided by NRS 202.2491,

202.24915, 202.2492, 202.2493, 202.24935 and 202.2494 ~~[.]~~ *and section 1 of this act.*

Sec. 7.5. NRS 202.2493 is hereby amended to read as follows:

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes, any smokeless product made or derived from tobacco or any alternative nicotine product in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of $100 and a civil penalty of $100. As used in this subsection, "smokeless product made or derived from tobacco" means any product that consists of cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity.

2. ~~[Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than $500 and a civil penalty of not more than $500.~~

~~3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description, products made or derived from tobacco, vapor products or alternative nicotine products, the person:~~

~~(a) Demands that the other person present a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older;~~

~~(b) Is presented a valid driver's license, permanent resident card, tribal identification card or other written or documentary evidence which shows that the other person is 18 years of age or older; and~~

~~(c) Reasonably relies upon the driver's license, permanent resident card, tribal identification card or written or documentary evidence presented by the other person.~~

~~4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco, products made or derived from tobacco, vapor products or alternative nicotine products, in the course of the child's lawful employment, provide tobacco, products made or derived from tobacco, vapor products or alternative nicotine products to the child.~~

~~5. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if the owner:~~

~~(a) Had no actual knowledge of the sale; and~~

~~(b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of subsection 2.~~

~~6.~~ The owner of a retail establishment shall, whenever any product made or derived from tobacco, vapor product or alternative nicotine product is being sold or offered for sale at the establishment, display prominently at the point of sale:

(a) A notice indicating that:

(1) The sale of cigarettes, other tobacco products, vapor products and alternative nicotine products to minors is prohibited by law; and

(2) The retailer may ask for proof of age to comply with this prohibition; and

(b) At least one sign that complies with the requirements of NRS 442.340.

➥ A person who violates this subsection shall be punished by a fine of not more than $100.

~~7.~~ *3.* It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

➥ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than $500.

~~8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.~~

Sec. 7.7. NRS 202.24935 is hereby amended to read as follows:

202.24935 1. It is unlawful for a person to knowingly sell or distribute cigarettes, cigarette paper, tobacco of any description , ~~or~~ products made or derived from tobacco , *vapor products or alternative nicotine products* to a child under the age of 18 years through the use of ~~the Internet.~~ *a computer network, telephonic network or other electronic network.*

2. A person who violates the provisions of subsection 1 shall be punished by a fine of not more than $500 and a civil penalty of not more than $500. Any money recovered pursuant to this section as a civil penalty must be deposited in the same manner as money is deposited pursuant to subsection ~~8~~ *9* of ~~NRS 202.2493.~~ *section 1 of this act.*

3. Every person who sells or distributes cigarettes, cigarette paper, tobacco of any description , ~~or~~ products made or derived from tobacco, *vapor products or alternative nicotine products* through the use of ~~the Internet~~ *a computer network, telephonic network or electronic network* shall ~~adopt a policy to prevent a child under the age of 18 years from obtaining cigarettes, cigarette paper, tobacco of any description or products made or derived from tobacco from the person through the use of the Internet. The policy must include, without limitation, a method for ensuring~~ *:*

(a) Ensure that ~~the person who delivers such items obtains the signature of a person who is over the age of 18 years when delivering the items, that~~ the

packaging or wrapping of the items when they are shipped is clearly marked with the word "cigarettes" or *, if the item being shipped are not cigarettes,* the words "tobacco products ." ~~[," and that the person complies with the provisions of 15 U.S.C. § 376. A person who fails to adopt a policy pursuant to this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than $500.]~~

(b) Perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes that the person is over the age of 18 years and use a method of mail, shipping or delivery that requires the signature of a person over the age of 18 years before the items are released to the purchaser, unless the person:

(1) Requires the customer to:

(I) Create an online profile or account with personal information, including, without limitation, a name, address, social security number and a valid phone number, that is verified through publicly available records; or

(II) Upload a copy of a government-issued identification card that includes a photograph of the customer; and

(2) Sends the package containing the items to the name and address of the customer who ordered the items.

Sec. 7.9. NRS 202.2496 is hereby amended to read as follows:

202.2496 1. As necessary to comply with any applicable federal law, the Attorney General shall conduct random, unannounced inspections at locations where tobacco, products made or derived from tobacco, vapor products and alternative nicotine products are sold, distributed or offered for sale to inspect for and enforce compliance with NRS 202.2493 and 202.2494 ~~[,]~~ *and section 1 of this act,* as applicable. For assistance in conducting any such inspection, the Attorney General may contract with:

(a) Any sheriff's department;

(b) Any police department; or

(c) Any other person who will, in the opinion of the Attorney General, perform the inspection in a fair and impartial manner.

2. If the inspector desires to enlist the assistance of a child under the age of 18 for such an inspection, the inspector shall obtain the written consent of the child's parent for such assistance.

3. A child assisting in an inspection pursuant to this section shall, if questioned about his or her age, state his or her true age and that he or she is under 18 years of age.

4. If a child is assisting in an inspection pursuant to this section, the person supervising the inspection shall:

(a) Refrain from altering or attempting to alter the child's appearance to make the child appear to be 18 years of age or older.

(b) Photograph the child immediately before the inspection is to occur and retain any photographs taken of the child pursuant to this paragraph.

5. The person supervising an inspection using the assistance of a child shall, within a reasonable time after the inspection is completed:

(a) Inform a representative of the business establishment from which the child attempted to purchase tobacco, products made or derived from tobacco, vapor products or alternative nicotine products that an inspection has been performed and the results of that inspection.

(b) Prepare a report regarding the inspection. The report must include the following information:

(1) The name of the person who supervised the inspection and that person's position;

(2) The age and date of birth of the child who assisted in the inspection;

(3) The name and position of the person from whom the child attempted to purchase tobacco, products made or derived from tobacco, vapor products or alternative nicotine products;

(4) The name and address of the establishment at which the child attempted to purchase tobacco, products made or derived from tobacco, vapor products or alternative nicotine products;

(5) The date and time of the inspection; and

(6) The result of the inspection, including whether the inspection resulted in the sale, distribution or offering for sale of tobacco, products made or derived from tobacco, vapor products or alternative nicotine products to the child.

6. No *administrative*, civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 *or section 1 of this act* may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 14.5. 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services for programs to control and prevent the use of tobacco the following sums:

For Fiscal Year 2019-2020 ..... $2,500,000

For Fiscal Year 2020-2021 ..... $2,500,000

2. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2019-2020 must be added to the money appropriated for Fiscal Year 2020-2021 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2020-2021, including any such money added from the previous fiscal year, must not be committed for expenditure after June 30, 2021, by the entity to

which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 17, 2021, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 17, 2021.

Sec. 14.7. 1. There is hereby appropriated from the State General Fund to the Department of Taxation to carry out the duties imposed on the Department pursuant to the provisions of this act the following sums:

For Fiscal Year 2019-2020 ..... $513,684

For Fiscal Year 2020-2021 ..... $445,175

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2020, and September 17, 2021, respectively, by either the entity to which the appropriation is made or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2020, and September 17, 2021, respectively.

Sec. 15. 1. This section and ~~[section]~~ sections 14.5 and 14.7 of this act become effective on July 1, 2019.

2. Sections 1 to 2, inclusive, and 7.1 to 7.9, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020, for all other purposes.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse and Goicoechea.

SENATOR WOODHOUSE:

Amendment No. 1036 to Senate Bill No. 263 makes an appropriation to the Department of Taxation to carry out the duties imposed on the Department pursuant to the provisions of the bill in the amount of $513,684 for Fiscal Year 2020 and $445,175 for Fiscal Year 2021.

SENATOR GOICOECHEA:

I voted for this bill in Committee, but now, I am concerned there is an appropriation of almost a million dollars that has been added to this bill.

Conflict of interest declared by Senator Ohrenschall.

Amendment adopted.

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

Motion carried.

Senate in recess at 9:44 p.m.

SENATE IN SESSION

At 9:49 p.m.
President Marshall presiding.
Quorum present.

Bill read third time.

Remarks by Senators Ratti, Seevers Gansert, Kieckhefer, Hardy, Hansen and Settelmeyer.

SENATOR RATTI:

Senate Bill No. 263 establishes provisions to require certain alternative nicotine products and vapor products, including electronic cigarettes, hookahs or vape pens and similar products or devices, and their components, to be regulated and taxed in the same manner as other tobacco products. Because the bill establishes alternative nicotine products and vapor products as other tobacco products, wholesale and retail dealers of these products are required to obtain a license from the Department of Taxation, and wholesale dealers are required to collect and pay a tax of 30 percent of the wholesale price of those products.

The bill establishes the definition of "smoking" within the Nevada Clean Indoor Act and expressly applies the Act to the use of an electronic smoking device. Senate Bill No. 263 removes the criminal penalties for certain violations under current law and instead, authorizes the Department of Taxation to impose a civil penalty for a person who sells, distributes or offers to sell certain tobacco and other tobacco products to a person under the age of 18. Additionally, Senate Bill No. 263 revises the amount of the civil penalties that may be imposed; establishes procedures for the issuance of a notice of infraction to a person who violates the prohibition on sales to minors and authorizes the person to request a hearing before the Department of Taxation; creates the authority for the imposition of penalties on a licensee whose employee or agent violates this prohibition and requires a person who sells or distributes certain tobacco products and other tobacco products through a computer network, telephonic network or other electronic network to ensure that the packaging in which the items are shipped is labeled "cigarettes" or "tobacco products;" and use certain age verification procedures. Finally, Senate Bill No. 263 provides an appropriation to the Department of Health and Human Services for programs to control and prevent the use of tobacco in the amount of $2.5 million for Fiscal Year 2020 and $2.5 million for Fiscal Year 2021, and provides an appropriation to the Department of Taxation to carry out the duties imposed on the Department pursuant to the provisions of the bill in the amount of $513,684 for Fiscal Year 2020 and $445,175 for Fiscal Year 2021.

We have an epidemic. The statistics related to the growth in use of vaping and e-cigarettes among our youth are alarming. In one year, the growth among high school students has increased by 78 percent. The growth among middle school students has increased by 48 percent. We have remoralized the use of nicotine as an acceptable practice. We have rolled back the years of good work in tobacco control and cessation and prevention programs, where the use of nicotine was on a steep decline. With the advent of this new class of products, we are seeing a rapid spike in nicotine use, and it is being used by our children. Children's brains are still being formed, and we know 90 percent of the people who use nicotine became addicted when they were under 18 years old. This has to stop.

This bill does not do everything, but it does four good things that will make a difference. First, it includes these products in the taxation and regulation scheme we have for other tobacco products. It recognizes these products for what they are, tobacco, and taxes and regulates them that way. We know when we significantly increase taxes on a product like this, economic behaviors change; people chose to buy less, and their usage goes down.

Second, this bill also increases enforcement. In our current enforcement strategy, the clerk is fined, and the business is let off the hook. This bill will still allow the clerk to be fined, but instead of it being a criminal penalty, it will be a civil penalty. The businesses will also be on the hook.

They will get two warnings to correct and work with their employees to make sure they no longer sell to minors, then, there will be increasingly more expensive fines if they continue this behavior.

The third thing this bill does is expand the Clean Indoor Air Act by including vaping and e-cigarettes. We saw this Act was effective in changing the conversation about smoking, and this bill defines vaping and e-cigarettes as related to this Act. There is evidence that second-hand vaping causes harm to bystanders who should not be put in that position.

Finally, the bill adds an appropriation of $2.5 million a year to invest in prevention such as media campaigns, outreach to our youth and other campaigns we know are effective. You have to spend money to make money so this bill takes some money for the Department of Taxation to administer this new framework: $1 million per biennium for the Department to do the auditing, enforcement and other activities to ensure people are complying with the new tax and regulatory structure. It will generate approximately $16 million in the biennium. We will spend $1 million and get $16 million back. Of the $16 million, we will spend $5 million to ensure we do a good job of prevention. I urge your support because we need to take significant steps to begin addressing this epidemic.

SENATOR SEEVERS GANSERT:

I want to commend my colleague from District 13 for her work on Senate Bill No. 263 and for bringing it forward, it is a significant and comprehensive bill. Use of nicotine products among our youth is epidemic. She mentioned that 90 percent of those adults who use tobacco products began when they were young due to nicotine's highly addictive properties. In the Committee hearing, we learned there are carcinogens even in the flavors. Children think e-cigarettes and vaping are safe, but they are far from it. This legislation is very important. It was mentioned there has been a rise in the use of these products. This has been an exponential rise. If you compare use of e-cigarettes among high school students from 2016 to 2017, it went up 20 percent, but comparing 2017 to 2018, it went up 28 percent. This is not linear growth; it is exponential growth and should be concerning to all of us. I am in strong support of this bill and urge your support.

SENATOR KIECKHEFER:

I appreciate the opportunity to have a bill in front of us is designed to protect my kids. I have two kids in middle school, and I drive them to school each day. It is the best part of my day, no offence to anyone in this room. As we started to discuss this bill, here, I asked them what they were seeing in their school. Vaping is prevalent and is a problem; they see it and know it. I hope I have made it clear they are not allowed to do it and have explained why it would be a bad choice.

As has been previously said, 90 percent of the people who are addicted to nicotine started when they were a teenager. I was prepared to propose an amendment to this bill raising the required age for purchasing any tobacco product to 21. This would be a good policy decision for this Body. The sponsor indicated this bill would pass and holding together something that will accomplish her goals would be better than risking potential failure. I respect that, so I did not bring that amendment, although, in some ways, I hope the other side is not quite as respectful of my colleague as I have been and brings that amendment. That would target the use of vapor products by our youth.

We heard from the kids who visited us that they get these products from their teenaged siblings and other kids in their high school who are old enough to buy them. They, then, sometimes sell them to others for a profit or give them away. That is how I got cigarettes when I was in high school and how kids get vapes now. I have a complex relationship with tobacco and nicotine in my life, but I do not want my kids to have that. I hope we can advance the goals of this bill on the other side of this Legislature, but I am more than happy to support it. I thank my colleague for bringing it forward.

SENATOR HARDY:

I rise in support of Senate Bill No. 263. The opportunity we have is a message we give our children. It creates conversation; it allows us to discuss this in the schools and in our families. The thing to do now to be cool, is to vape. We need to give our children and students a reason not to do this. We need to be able to tell them this is not a good thing, and these are the reasons why. It is one thing to say do not do it; we need to be able to give them reasons. This bill addresses how to teach our children what to do. I was discussing this with a group of 30 high school students and

asked how many of them had seen people vaping in school. All of them raised their hand. It is out there, and we need to do something to protect our children and have these discussions.

We know children are using the open cartridges, use marijuana in their vaping devices to get high. I am glad it was disclosed by our Senator multiple times that he could not vote on bills because it is appropriate for this bill. These devices can be and are used for the use of marijuana. We cannot do enough to give our children reasons they should not partake of these products. They are harmful, and when we partake of something and get dependent, as opposed to addicted, sometimes, one dependency leads to another. The concept of an entryway is real. If we can stop that in the bud, we need to do so.

SENATOR HANSEN:
Do all products for vaping contain nicotine?

SENATOR RATTI:
There are two different types of vape products, closed system or open system. Primarily, in the open system, there are liquids that are not nicotine. However, many of those products are purchased, and they will add nicotine with nicotine-free products, where health regulations are compromised. Note, the nicotine-free products are a relatively small portion of what is currently available.

SENATOR HANSEN:
The bill treats them all the same?

SENATOR RATTI:
Yes, because they are nearly impossible to distinguish regarding that next step.

SENATOR HANSEN:
I find it ironic we have had many disclaimers about voting on marijuana and treat it as if it were a noble thing by taxing it and using it for funding, but if you want to see a real epidemic, you should look at the number of kids using pot. I have done homework about the damages of smoking marijuana, and it is worse than tobacco. It is ironic we are going to make vaping products essentially illegal. This is déjà vu. If you go back to the 1960s when marijuana was the new thing, everyone thought they could come to a building like this, outlaw it and magically it would happen.

I think this is noble; I have 8 kids and 18 grandchildren. We have had good success in helping them stay away from these things and alcohol, which is equally as bad. I do not want anyone thinking I am encouraging children to do this, but it seems this bill goes too far.

It also seems this bill is a tax, a new revenue for the State. I am curious why it does not have a two-thirds majority vote required. In looking, I see that is does. Does it then not violate the Governor's pledge for no new taxes in his State of the State speech? There are several interesting angles to this.

I am going to vote "no" on Senate Bill No. 263 because I think there is a hypocritical factor here. We are discussing marijuana like it is a noble thing when it is much more harmful to our children right now. We are willing to look the other way on it because it brings revenue to the State and our efforts to stop it in the past have been a miserable failure. I am going to vote "no". I can see why people would vote "yes", but I think we are crossing a line here.

SENATOR SETTELMEYER:
I appreciate the efforts of Senate Bill No. 263. I had a bill a long time ago dealing with possession. I still think it is wrong for the State of Nevada to say we want to make money off of it. If we want to make sure the youth do not have it, we should pass a law against it. We do not have one. Four years old, eight years old, ten years old, sixteen, pick an age, kids can walk around smoking, and it is not illegal. If we truly believe this is a health hazard, which I do, we should make it a possessionary crime across the State of Nevada, and we should go cheap. We should not be trying to punish people. When I brought the bill, I found out that predominately children of color were the ones smoking. Make it age-related, such as a $2 fine for a two-year old, $3 for a three-year old—figure it out—but we do not even make it illegal now. The majority of people obey laws, even children. In my mind, we should have gone for possession.

The other aspect of the bill that concerns me is we will have the ability to punish a business, and I appreciate the warning system that is in this bill, but if a clerk decides to sell to a group of kids, the business is now held liable for what is a supervening, intervening illegal activity of a clerk.

Conflict of interest declared by Senator Ohrenschall.

Roll call on Senate Bill No. 263:
YEAS—16.
NAYS—Hammond, Hansen, Settelmeyer—3.
NOT VOTING—Ohrenschall.
EXCUSED—Washington.

Senate Bill No. 263 having received a two-thirds majority, Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 377.
Bill read third time.
Remarks by Senators Harris, Pickard and Settelmeyer.

SENATOR HARRIS:
Senate Bill No. 377 provides a 2.3 percent annual increase in compensation, beginning on January 1, 2020, for permanent, total disability to claimants and dependents of claimants who suffered an industrial injury or disablement that occurred before January 1, 2004, beginning on January 1, 2020. The bill provides the assessments against employers and insurers who provide accident benefits for insured employees may be used to pay the cost of the annual increase in compensation paid to the claimants. Additionally, the bill requires money and securities in the Fund for Worker's Compensation and Safety be used to reimburse the annual increased compensation if the interest realized on the investment of assets for the Uninsured Employers Claims Account is insufficient to fund such increased compensation. The bill also authorizes an employer or insurer who pays an annual increase in compensation to obtain a reimbursement from the Administrator of the Division of Industrial Relations of the Department of Business and Industry paid from the income realized from the income in the account, or from certain assessments levied on insurers and employers, if the income realized from the account is insufficient. Finally, the bill repeals certain provisions which authorize a single annual payment from the account to claimants and dependents of claimants who suffered an industrial injury or disablement that occurred before January 1, 2004.

SENATOR PICKARD:
What is the genesis of Senate Bill No. 377? Why do we need an increase of 2.3 percent? What will this do to employer's insurance premiums? If we are increasing costs, everyone's premiums will go up.

SENATOR HARRIS:
This bill addresses a simple problem. In 2003, this Body passed a bill providing a 2.3 percent annual increase in compensation to those who were injured after the bill was passed. This left those injured prior to January 1, 2004, without a cost of living increase. There is a group of injured workers who have not seen a cost of living increase in their compensation, which is based on wages, from the time they were injured. This bill tries to bring equity and give them that 2.3 increase moving forward from this date.

SENATOR SETTELMEYER:
I was also concerned about the cost, but after hearing testimony in the Committee on Commerce and Labor and discussing this bill with different entities, I learned the different categories are siloed in this bill. I was concerned that a bad actor in, for example, the "other" category, which had the most claims, would be shouldered by the rest. Some categories do a better job with being

safe than others, so I do not appreciate this. The law has four categories of companies: private, self-insured, associations and other. The costs will be associated correctly with each silo. Because of that, I rise in support of Senate Bill No. 377.

Roll call on Senate Bill No. 377:
YEAS—20.
NAYS—None.
EXCUSED—Washington.

Senate Bill No. 377 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 425.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1044.

SUMMARY—Requires the Director of the Department of Health and Human Services to amend the State Plan for Medicaid to provide certain additional home and community-based services. (BDR 38-919)

AN ACT relating to public welfare; requiring the Director of the Department of Health and Human Services to amend the State Plan for Medicaid to provide certain additional home and community-based services; requiring the Division of Health Care Financing and Policy of the Department to provide tenancy support services to the extent authorized by federal law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under federal law, programs for home and community-based services for elderly and disabled individuals may be established at a statewide level under certain Medicaid provisions. Federal law authorizes states to implement certain home and community-based services, such as tenancy support services, for persons who are elderly or disabled. (42 U.S.C. § 1396n(i)) Existing law grants the Director of the Department of Health and Human Services broad authority to amend the State Plan for Medicaid to seek a Medicaid waiver under various Medicaid provisions. (NRS 422.270-422.27495)

This bill requires the Director to include in the State Plan for Medicaid an option to provide certain additional home and community-based services, including, to the extent authorized, tenancy support services. This bill also requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to adopt regulations to ensure the option complies with the requirements of federal law. (42 U.S.C. § 1396n(i))

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall include in the State Plan for Medicaid an option to provide certain additional home and community-based services in a manner

consistent with 42 U.S.C. § 1396n(i). To the extent authorized by federal law, the Division shall provide tenancy support services to assist recipients of Medicaid pursuant to that option.

2. The Division shall adopt any regulations necessary to comply with the requirements of 42 U.S.C. § 1396n(i).

3. As used in this section, "tenancy support services" means services authorized pursuant to federal law that assist a recipient of Medicaid in obtaining and remaining in housing the Division determines to be adequate.

Sec. 2. This act becomes effective on ~~[July 1, 2019.]~~ January 1, 2020.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 1044 to Senate Bill No. 425 changes the effective date of the act from July 1, 2019, to January 1, 2020.

Bill read third time.

Remarks by Senator Cannizzaro.

Senate Bill No. 425 requires the Director of the Department of Health and Human Services to include tenancy support services in the Medicaid State Plan to the extent authorized by federal law. This is an important piece of legislation that will provide amazing resources for people who need it. I urge your support.

Roll call on Senate Bill No. 425:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 425 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 86, 121, 163, 164, 204, 342, 424, 502, 523, 524.

Senator Cannizzaro moved that the Senate adjourn until Friday, May 31, 2019, at 11:00 a.m.

Motion carried.

Senate adjourned at 10:15 p.m.

Approved: KATE MARSHALL
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate