

NEVADA LEGISLATURE

Seventy-Seventh Session, 2013

ASSEMBLY DAILY JOURNAL

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), May 31, 2013

Assembly called to order at 9:45 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblywoman Pierce, who was excused.

Prayer by the Chaplain, Pastor Bruce Henderson, Airport Road Church of Christ, Carson City, Nevada.

Lord,

I begin by praying an ancient prayer by King David. "Unto thee, O' Lord, do I lift up my soul. O' my God, I trust in Thee: Let me not be ashamed, let not mine enemies triumph over me."

Father, after 116 days here, our enemies are things like time and negativity. O' my God, I trust in Thee. Let not mine enemies triumph over me. Help us to know, as did the Apostle Paul, "I can do all things through Him who strengthens me."

I pray in His Name.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

Assemblyman Horne moved that the Assembly recess until 10:30 a.m.

Motion carried.

Assembly in recess at 9:53 a.m.

ASSEMBLY IN SESSION

At 11:12 a.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was referred Senate Bill No. 515, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 30, 2013

To the Honorable the Assembly:

It is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 444, Amendment No. 907, and respectfully requests your honorable body to concur in said amendment.

Also, it is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 181, Senate Amendment No. 651, and requests a conference, and appointed Senators Atkinson, Jones and Hutchison as a Conference Committee to meet with a like committee of the Assembly.

Also, it is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 205, Senate Amendment No. 612, and requests a conference, and appointed Senators Woodhouse, Ford and Cegavske as a Conference Committee to meet with a like committee of the Assembly.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bills Nos. 308, 328.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendment No. 649 to Senate Bill No. 36; Assembly Amendments Nos. 688, 836 to Senate Bill No. 72; Assembly Amendment No. 631 to Senate Bill No. 170; Assembly Amendments Nos. 846, 862 to Senate Bill No. 210; Assembly Amendment No. 630 to Senate Bill No. 217; Assembly Amendment No. 696 to Senate Bill No. 244; Assembly Amendment No. 645 to Senate Bill No. 266; Assembly Amendment No. 699 to Senate Bill No. 302; Assembly Amendment No. 733 to Senate Bill No. 312; Assembly Amendment No. 698 to Senate Bill No. 313; Assembly Amendments Nos. 684, 822 to Senate Bill No. 321; Assembly Amendments Nos. 646, 873 to Senate Bill No. 327; Assembly Amendment No. 642 to Senate Bill No. 442; Assembly Amendment No. 701 to Senate Bill No. 456; Assembly Amendment No. 697 to Senate Bill No. 508.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendment No. 731 to Senate Bill No. 179 and respectfully refused to concur in Assembly Amendment No. 871 to Senate Bill No. 179.

Also, it is my pleasure to inform your esteemed body that the Senate on this day appointed Senators Smith, Woodhouse and Kieckhefer as a Conference Committee concerning Senate Bill No. 185.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Bobzien, Healey, and Grady as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 181.

Madam Speaker appointed Assemblymen Elliot Anderson, Carlton, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 205.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 308.

Assemblyman Horne moved that the bill be referred to the Committee on Taxation.

Motion carried.

Senate Bill No. 328.

Assemblyman Elliot Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 84.

The following Senate amendment was read:

Amendment No. 626.

SUMMARY—Requires ~~the~~ district courts , in certain circumstances, to establish an appropriate program for the treatment of ~~consider the facts and circumstances surrounding offenses committed by~~ certain offenders who are veterans or members of the military ~~to~~ determine eligibility for an appropriate program of treatment. (BDR 14-124)

AN ACT relating to criminal procedure; ~~requiring certain district courts to establish an appropriate program for the treatment of certain offenders who are veterans or members of the military if funds are available for the establishment of such a program;~~ requiring a district court , in certain circumstances, to consider the facts and circumstances surrounding the an offense committed by an offender eligible who is a veteran or member of the military to determine eligibility for such a an appropriate program in certain circumstances; of treatment established by the district court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under existing law, a district court may establish an appropriate program for the treatment of certain offenders who are veterans and members of the military. (NRS 176A.280) Section 1 of this bill requires, to the extent that funds are available, a district court in a county whose population is 700,000 or more (currently Clark County) to establish such a program. A district court~~

~~in a county whose population is less than 700,000 (currently all counties other than Clark County) retains the option to establish such a program.]~~

Existing law authorizes a district court to place certain offenders who are veterans or members of the military on probation upon terms and conditions that must include attendance and successful completion of ~~such a~~ **an appropriate program] for the treatment of such offenders that is established by the district court.** However, the court may not assign an offender to such a program without the prosecuting attorney stipulating to the assignment if: (1) the offense committed by the offender involved the use or threatened use of force or violence; or (2) the offender was previously convicted of a felony that involved the use or threatened use of force or violence. (NRS 176A.290) **Section 1.5** of this bill provides that in determining whether an offense involved the use or threatened use of force or violence, the court must consider the facts and circumstances surrounding the offense, including, without limitation, whether the offender intended to place another person in reasonable apprehension of bodily harm.

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

Section 1. ~~NRS 176A.280 is hereby amended to read as follows:
176A.280—[A]~~

~~1. In a county whose population is 700,000 or more, a court [may] shall, to the extent that funds are available, establish an appropriate program for the treatment of veterans and members of the military to which it may assign a defendant pursuant to NRS 176A.290.~~

~~2. In a county whose population is less than 700,000, a court may establish a program described in subsection 1.~~

~~3. The assignment of a defendant to a program established pursuant to this section must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.] (Deleted by amendment.)~~

Sec. 1.5. NRS 176A.290 is hereby amended to read as follows:

176A.290 1. Except as otherwise provided in subsection 2, if a defendant who is a veteran or a member of the military and who suffers from mental illness, alcohol or drug abuse or posttraumatic stress disorder as described in NRS 176A.285 tenders a plea of guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions

that must include attendance and successful completion of a program established pursuant to NRS 176A.280.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment. *For the purposes of this subsection, in determining whether an offense involved the use or threatened use of force or violence, the court shall consider the facts and circumstances surrounding the offense, including, without limitation, whether the defendant intended to place another person in reasonable apprehension of bodily harm.*

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of the defendant for any purpose.

~~Sec. 2. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.~~
(Deleted by amendment.)

Sec. 3. This act becomes effective on January 1, 2014.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 626 to Assembly Bill No. 84.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Amendment 626 retains the existing provisions in NRS that make it permissive for a court to establish a program for the treatment of veterans and members of the military who suffer from alcohol, drug abuse, mental illness, or PTSD.

Motion carried by a constitutional majority.
Bill ordered to enrollment.

Assembly Bill No. 202.

The following Senate amendment was read:

Amendment No. 673.

AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring the Legislative Committee on Child Welfare and Juvenile Justice to appoint a task force to study certain issues relating to juveniles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder and attempted murder. (NRS 62B.330) **Section 1** of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was 14 years of age or older when he or she committed the offense. **Under section 11 of this bill, this provision becomes effective on October 1, 2014.**

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding. **Under section 11, this provision becomes effective on October 1, 2013.**

Section 10 of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.

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

Section 1. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

- (a) Violates a county or municipal ordinance;
- (b) Violates any rule or regulation having the force of law; or
- (c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~†~~ ***if the person was 14 years of age or older when the murder or attempted murder was committed.***

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been

adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 2. NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

- (a) The child is alleged to be delinquent;
- (b) An alternative facility is not available; and
- (c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~the~~ :

(a) A criminal offense excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330 ~~the~~ ; or

(b) A child who is certified for criminal proceedings as an adult pursuant to NRS 62B.390,

↪ a child may petition the juvenile court for temporary placement in a facility for the detention of children.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. The Legislative Committee on Child Welfare and Juvenile Justice created by NRS 218E.705 shall create a task force to study certain issues relating to juvenile justice in accordance with the provisions of this section.

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following ~~nine~~ 10 voting members:

(a) One member of the Senate or Assembly, who shall serve as Chair of the task force.

(b) One member who is a district attorney.

(c) One member who is a public defender.

(d) One member from the Office of the Attorney General.

(e) One member from the Division of Child and Family Services of the Department of Health and Human Services.

(f) One member who is a judge of the juvenile court.

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

~~(h)~~ (i) One member who is a representative from an organization that advocates on behalf of juveniles.

~~(i)~~ (j) The Director of the Department of Corrections.

3. The task force shall study the following issues and make its findings and any recommendations for proposed legislation:

(a) The laws in this State and other states, including an examination of best practices, pertaining to certification of juveniles as adults and offenses excluded from the jurisdiction of the juvenile court.

(b) The advantages and disadvantages of blended sentencing.

(c) The ability of adult correctional facilities and institutions to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and incarcerated in adult facilities and institutions.

(d) The ability of juvenile detention facilities to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and detained in juvenile detention facilities.

(e) The costs and benefits of housing juvenile offenders who are convicted of crimes as adults in adult correctional facilities and institutions and in juvenile detention facilities.

(f) Proposed legislation that is necessary to implement any necessary or desirable changes in Nevada law relating to the issues set forth in this subsection.

4. The members of the task force, other than the Chair of the task force, serve without compensation, except that each such member is entitled, while engaged in the business of the task force and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

5. Not later than 30 days after appointment, each member of the task force, other than the Chair of the task force, shall nominate one person to serve as his or her alternate member and submit the name of the person nominated to the Chair of the task force for appointment. An alternate member shall serve as a voting member of the task force when the appointed member who nominated the alternate member is disqualified or unable to serve.

6. The members of the task force shall hold not more than four meetings at the call of the Chair of the task force.

7. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the Committee may fund the costs of the task force.

8. The Committee shall submit a report of the findings of the task force and its recommendations for legislation to the 78th Session of the Nevada Legislature.

Sec. 11. 1. This section and section 10 of this act become effective on July 1, 2013.

2. Sections ~~11~~ 2 to 9, inclusive, of this act become effective on October 1, 2013.

3. Section 1 of this act becomes effective on October 1, 2014.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 673 to Assembly Bill No. 202.

Remarks by Assemblyman Frierson.

Motion carried.

The following Senate amendment was read:

Amendment No. 829.

AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring the Legislative Committee on Child Welfare and Juvenile Justice to appoint a task force to study certain issues relating to juveniles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder and attempted murder. (NRS 62B.330) **Section 1** of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was ~~14~~ 16 years of age or older when he or she committed the offense. Under **section 11** of this bill, this provision becomes effective on October 1, 2014.

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding. Under **section 11**, this provision becomes effective on October 1, 2013.

Section 10 of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.

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

Section 1. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

- (a) Violates a county or municipal ordinance;
- (b) Violates any rule or regulation having the force of law; or
- (c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~if~~ ***if the person was ~~not~~ 16 years of age or older when the murder or attempted murder was committed.***

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been

adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 2. NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

- (a) The child is alleged to be delinquent;
- (b) An alternative facility is not available; and
- (c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~††~~ :

(a) A criminal offense excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330 ~~††~~ ; or

(b) *A child who is certified for criminal proceedings as an adult pursuant to NRS 62B.390,*

↪ a child may petition the juvenile court for temporary placement in a facility for the detention of children.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. The Legislative Committee on Child Welfare and Juvenile Justice created by NRS 218E.705 shall create a task force to study certain issues relating to juvenile justice in accordance with the provisions of this section.

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following 10 voting members:

(a) One member of the Senate or Assembly, who shall serve as Chair of the task force.

(b) One member who is a district attorney.

(c) One member who is a public defender.

(d) One member from the Office of the Attorney General.

(e) One member from the Division of Child and Family Services of the Department of Health and Human Services.

(f) One member who is a judge of the juvenile court.

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

(i) One member who is a representative from an organization that advocates on behalf of juveniles.

(j) The Director of the Department of Corrections.

3. The task force shall study the following issues and make its findings and any recommendations for proposed legislation:

(a) The laws in this State and other states, including an examination of best practices, pertaining to certification of juveniles as adults and offenses excluded from the jurisdiction of the juvenile court.

(b) The advantages and disadvantages of blended sentencing.

(c) The ability of adult correctional facilities and institutions to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and incarcerated in adult facilities and institutions.

(d) The ability of juvenile detention facilities to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and detained in juvenile detention facilities.

(e) The costs and benefits of housing juvenile offenders who are convicted of crimes as adults in adult correctional facilities and institutions and in juvenile detention facilities.

(f) Proposed legislation that is necessary to implement any necessary or desirable changes in Nevada law relating to the issues set forth in this subsection.

4. The members of the task force, other than the Chair of the task force, serve without compensation, except that each such member is entitled, while engaged in the business of the task force and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

5. Not later than 30 days after appointment, each member of the task force, other than the Chair of the task force, shall nominate one person to serve as his or her alternate member and submit the name of the person nominated to the Chair of the task force for appointment. An alternate member shall serve as a voting member of the task force when the appointed member who nominated the alternate member is disqualified or unable to serve.

6. The members of the task force shall hold not more than four meetings at the call of the Chair of the task force.

7. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the Committee may fund the costs of the task force.

8. The Committee shall submit a report of the findings of the task force and its recommendations for legislation to the 78th Session of the Nevada Legislature.

Sec. 11. 1. This section and section 10 of this act become effective on July 1, 2013.

2. Sections 2 to 9, inclusive, of this act become effective on October 1, 2013.

3. Section 1 of this act becomes effective on October 1, 2014.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 829 to Assembly Bill No. 202.

Remarks by Assemblyman Frierson.

Motion carried.

The following Senate amendment was read:

Amendment No. 867.

AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; **reducing the age at which a child may be certified as an adult for criminal proceedings;** authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring the Legislative Committee on Child Welfare and Juvenile Justice to appoint a task force to study certain issues relating to juveniles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder and attempted murder. (NRS 62B.330) **Section 1** of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was 14 years of age or older when he or she committed the offense. Under **section 11** of this bill, this provision becomes effective on October 1, 2014.

Under existing law, a child may be certified for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation if the child: (1) is charged with an offense that would have been a felony if committed by an adult; and (2) was 14 years of age or older at the time the child allegedly committed the offense. Section 1.3 of this bill reduces the minimum age of such certification from 14 years of

age to 13 years of age. Under section 11, this provision becomes effective on October 1, 2014.

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding. Under **section 11**, this provision becomes effective on October 1, 2013.

Section 10 of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.

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

Section 1. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

- (a) Violates a county or municipal ordinance;
- (b) Violates any rule or regulation having the force of law; or
- (c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~if~~ ***if the person was 14 years of age or older when the murder or attempted murder was committed.***

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 1.3. NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with an offense that would have been a felony if committed by an adult; and

(b) Was ~~14~~ 13 years of age or older at the time the child allegedly committed the offense.

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was 16 years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or

(b) The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

Sec. 1.7. NRS 62B.400 is hereby amended to read as follows:

62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:

(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and

(b) Escapes or attempts to escape from such a facility.

2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was ~~14~~ 13 years of age or older at the time of the escape or attempted escape and:

(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or

(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.

3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.

4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.

Sec. 2. NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

- (a) The child is alleged to be delinquent;
- (b) An alternative facility is not available; and
- (c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~††~~ :

(a) A criminal offense excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330 †† ; or

(b) A child who is certified for criminal proceedings as an adult pursuant to NRS 62B.390,

↪ a child may petition the juvenile court for temporary placement in a facility for the detention of children.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. The Legislative Committee on Child Welfare and Juvenile Justice created by NRS 218E.705 shall create a task force to study certain issues relating to juvenile justice in accordance with the provisions of this section.

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following 10 voting members:

(a) One member of the Senate or Assembly, who shall serve as Chair of the task force.

(b) One member who is a district attorney.

(c) One member who is a public defender.

(d) One member from the Office of the Attorney General.

(e) One member from the Division of Child and Family Services of the Department of Health and Human Services.

(f) One member who is a judge of the juvenile court.

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

(i) One member who is a representative from an organization that advocates on behalf of juveniles.

(j) The Director of the Department of Corrections.

3. The task force shall study the following issues and make its findings and any recommendations for proposed legislation:

(a) The laws in this State and other states, including an examination of best practices, pertaining to certification of juveniles as adults and offenses excluded from the jurisdiction of the juvenile court.

(b) The advantages and disadvantages of blended sentencing.

(c) The ability of adult correctional facilities and institutions to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and incarcerated in adult facilities and institutions.

(d) The ability of juvenile detention facilities to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and detained in juvenile detention facilities.

(e) The costs and benefits of housing juvenile offenders who are convicted of crimes as adults in adult correctional facilities and institutions and in juvenile detention facilities.

(f) Proposed legislation that is necessary to implement any necessary or desirable changes in Nevada law relating to the issues set forth in this subsection.

4. The members of the task force, other than the Chair of the task force, serve without compensation, except that each such member is entitled, while engaged in the business of the task force and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

5. Not later than 30 days after appointment, each member of the task force, other than the Chair of the task force, shall nominate one person to serve as his or her alternate member and submit the name of the person nominated to the Chair of the task force for appointment. An alternate member shall serve as a voting member of the task force when the appointed member who nominated the alternate member is disqualified or unable to serve.

6. The members of the task force shall hold not more than four meetings at the call of the Chair of the task force.

7. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the Committee may fund the costs of the task force.

8. The Committee shall submit a report of the findings of the task force and its recommendations for legislation to the 78th Session of the Nevada Legislature.

Sec. 11. 1. This section and section 10 of this act become effective on July 1, 2013.

2. Sections 2 to 9, inclusive, of this act become effective on October 1, 2013.

3. ~~Section~~ **Sections 1, 1.3 and 1.7** of this act ~~becomes~~ **become** effective on October 1, 2014.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 867 to Assembly Bill No. 202.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 207.

The following Senate amendment was read:

Amendment No. 736.

AN ACT relating to juveniles; ~~providing for certain prosecutorial discretion regarding a child taken into custody for a battery constituting domestic violence or any other battery offense;~~ establishing a maximum period of time for which a juvenile court may order ~~an adult who has been placed on probation by the juvenile court or released on parole~~ **certain adults** to be placed in county jail for a violation of **juvenile** probation or parole; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law provides that certain unlawful acts constitute domestic violence when committed against certain specified persons. (NRS 33.018) In addition, existing law provides that if a person is charged with committing a battery that constitutes domestic violence, a prosecuting attorney has limited discretion and may not negotiate any plea agreement for a different or lesser charge unless the domestic violence charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.485)~~

~~Section 2 of this bill specifies that when a child is taken into custody for a battery that constitutes domestic violence or any other battery offense, the prosecuting attorney has greater discretion in determining the charge and in negotiating any plea agreement for a different or lesser charge based on certain factors, including: (1) the nature and type of relationship between the child and victim; (2) the nature and severity of the alleged offense; and (3) whether the child engaged in a pattern of abusive behavior toward the victim to establish or maintain power and control over the victim.~~

Existing law provides that a juvenile court may order a child who is less than 18 years of age to be placed in a facility for the detention of children for not more than 30 days for ~~the~~ **a** violation of probation. Under existing law, if a person who is at least 18 years of age but less than 21 years of age is

subject to the jurisdiction of the juvenile court because he or she has been placed on probation by the juvenile court or released on parole from a juvenile detention facility, the juvenile court may order the person to be placed in county jail for the violation of probation or parole. (NRS 62E.710) **Section 3** of this bill limits to 30 days the period for which the juvenile court may order such a person to be placed in county jail.

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

Section 1. (Deleted by amendment.)

Sec. 2. ~~Chapter 62C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Notwithstanding the provisions of subsection 8 of NRS 200.485, if a child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018 or any other battery offense, the district attorney may, after considering the factors set forth in subsection 2, determine whether to:~~

~~(a) File a petition alleging a different or lesser offense arising out of the same facts;~~

~~(b) Negotiate or enter into an agreement whereby the child admits to a different or lesser offense arising out of the same facts; or~~

~~(c) Take or approve any other actions authorized by this title, including, without limitation, informal supervision or dismissal.~~

~~2. In exercising his or her prosecutorial discretion pursuant to this section, the district attorney shall consider, without limitation:~~

~~(a) The nature and type of relationship between the child and the victim of the alleged offense;~~

~~(b) The nature and severity of the alleged offense; and~~

~~(c) Whether the facts show that the child engaged in a pattern of abusive behavior toward the victim of the alleged offense for the purpose of establishing or maintaining power and control over the victim.~~ (Deleted by amendment.)

Sec. 3. NRS 62E.710 is hereby amended to read as follows:

62E.710 The juvenile court may order any child who is:

1. Less than 18 years of age and who has been adjudicated delinquent and placed on probation by the juvenile court to be placed in a facility for the detention of children for not more than 30 days for the violation of probation.

2. At least 18 years of age but less than 21 years of age and who has been placed on probation by the juvenile court or who has been released on parole to be placed in a county jail **for not more than 30 days** for the violation of probation or parole.

Sec. 4. ~~NRS 200.485 is hereby amended to read as follows:~~

~~200.485 1. Unless a greater penalty is provided pursuant to subsection 2 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:~~

~~(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:~~

~~(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and~~

~~(2) Perform not less than 48 hours, but not more than 120 hours, of community service.~~

~~➤ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.~~

~~(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:~~

~~(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and~~

~~(2) Perform not less than 100 hours, but not more than 200 hours, of community service.~~

~~➤ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.~~

~~(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~2. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.~~

~~3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:~~

~~(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~3. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~4. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.~~

~~5. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of \$35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.~~

~~6. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.~~

~~7. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.~~

~~8. [If] *Except as otherwise provided in section 2 of this act*, if a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.~~

~~9. As used in this section:~~

~~(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.~~

~~(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct. (Deleted by amendment.)~~

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 736 to Assembly Bill No. 207.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Amendment 736 deletes all sections of the bill except, it limits to 30 days the period for which a juvenile court may order a person between 18 and 21 to be placed in jail for violation of probation or parole.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 212.

The following Senate amendment was read:

Amendment No. 674.

AN ACT relating to correctional institutions; prohibiting the possession of portable telecommunications devices by certain prisoners; **authorizing persons convicted of possessing portable telecommunications devices to request a modification of sentence under certain circumstances;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the possession of portable telecommunications devices by prisoners in state institutions and facilities. (NRS 212.165) This bill extends that prohibition to include any prisoner in a jail, branch county jail or other local detention facility and provides that a prisoner who violates the prohibition is guilty of: (1) a category D felony if he or she was confined as a result of a felony; (2) a gross misdemeanor if he or she was confined as a result of a gross misdemeanor; or (3) a misdemeanor if he or she was confined as a result of a misdemeanor. **This bill also authorizes a person who was convicted of possessing a portable telecommunications device in a jail, branch county jail or other local detention facility to request a modification of his or her sentence if the underlying charge for which the person was in lawful custody or confinement has been reduced, declined for prosecution or dismissed.**

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

Section 1. NRS 212.165 is hereby amended to read as follows:

212.165 1. A person shall not, without lawful authorization, knowingly furnish, attempt to furnish, or aid or assist in furnishing or attempting to furnish to a prisoner confined in an institution or a facility of the Department of Corrections, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A person shall not, without lawful authorization, carry into an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, a portable telecommunications device. A person who violates this subsection is guilty of a misdemeanor.

3. A prisoner confined in an institution or a facility of the Department, or any other place where prisoners are authorized to be or are assigned by the Director of the Department, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. *A prisoner confined in a jail or any other place where such prisoners are authorized to be or are assigned by the sheriff, chief of police or other officer responsible for the operation of the jail, shall not, without lawful authorization, possess or have in his or her custody or control a portable telecommunications device. A prisoner who violates this subsection and who is in lawful custody or confinement for a charge, conviction or sentence for:*

(a) A felony is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) A gross misdemeanor is guilty of a gross misdemeanor.

(c) A misdemeanor is guilty of a misdemeanor.

5. A sentence imposed upon a prisoner pursuant to subsection 3 ~~†~~ or 4:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon the prisoner for the offense or offenses for which the prisoner was in lawful custody or confinement when the prisoner violated the provisions of subsection 3 ~~†~~

~~5~~ or 4.

6. *A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in*

lawful custody or confinement has been reduced to a charge for which the penalty is less than the penalty which was imposed upon the person pursuant to subsection 4, with the court of original jurisdiction requesting that the court, for good cause shown:

(a) Order that his or her sentence imposed pursuant to subsection 4 be modified to a sentence equivalent to the penalty imposed for the underlying charge for which the person was convicted; and

(b) Resentence him or her in accordance with the penalties prescribed for the underlying charge for which the person was convicted.

7. A person who was convicted and sentenced pursuant to subsection 4 may file a petition, if the underlying charge for which the person was in lawful custody or confinement has been declined for prosecution or dismissed, with the court of original jurisdiction requesting that the court, for good cause shown:

(a) Order that his or her original sentence pursuant to subsection 4 be reduced to a misdemeanor; and

(b) Resentence him or her in accordance with the penalties prescribed for a misdemeanor.

8. No person has a right to the modification of a sentence pursuant to subsection 6 or 7, and the granting or denial of a petition pursuant to subsection 6 or 7 does not establish a basis for any cause of action against this State, any political subdivision of this State or any agency, board, commission, department, officer, employee or agent of this State or a political subdivision of this State.

9. As used in this section:

(a) "Facility" has the meaning ascribed to it in NRS 209.065.

(b) "Institution" has the meaning ascribed to it in NRS 209.071.

(c) "Jail" means a jail, branch county jail or other local detention facility.

(d) "Telecommunications device" has the meaning ascribed to it in subsection 3 of NRS 209.417.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 674 to Assembly Bill No. 212.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Amendment 674 authorizes a person who is convicted of possessing a cell phone in a jail or other detention facility to request a modification if the underlying charge was reduced, declined, or dismissed.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 223.

The following Senate amendment was read:

Amendment No. 764.

AN ACT relating to constables; revising provisions governing ~~the powers and duties of a constable or sheriff with respect to posting certain notices;~~ **certain notice of a foreclosure sale required to be provided to a tenant; requiring a constable in certain townships to become certified as a category I or category II peace officer within a certain period after commencing his or her term of office; prohibiting a constable or deputy constable in certain smaller townships from making arrests in the course of his or her duties;** revising provisions governing the appointment of deputy constables and the clerical and operational staff of a constable; clarifying that a constable may issue a citation for a violation of certain laws governing the registration of motor vehicles only if the motor vehicle is located in his or her township; revising various other provisions governing constables; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. (NRS 40.253) **Section 1** of this bill provides that the affidavit of complaint for eviction of a tenant that a landlord or landlord's agent is authorized to file in justice court or district court applies to tenants of recreational vehicles.

Existing law provides that if a sale of property is a residential foreclosure, the posting of certain required notices on the property must be completed by a licensed process server or any constable or sheriff. (NRS 107.087) **Section 3** of this bill : **(1) specifies that the constable or sheriff who posts such a notice must be a constable or sheriff of the county in which the property is located. ~~It~~ ; and (2) revises the date by which certain required notices must be provided.**

Existing law provides that a constable is a peace officer in his or her township. (NRS 258.070) Section 8.6 of this bill requires a constable of a township whose boundaries include a city whose population is 150,000 or more (currently Henderson, Las Vegas, North Las Vegas and Reno) to become certified as a category I or category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, extends the time. Section 16.5 of this bill provides that this requirement does not apply to a constable who is in office on July 1, 2013, unless he or she is elected or appointed to a term of office on or after July 1, 2013.

Sections 7.5, 12 and 12.5 of this bill provide that a constable or deputy constable in a township that has within its boundaries a city whose population is less than 150,000 (currently all cities other than Henderson, Las Vegas, North Las Vegas and Reno) may not make an arrest in the course of performing his or her duties as a constable.

Existing law authorizes a constable to appoint deputies and provides that a deputy constable must be certified as a category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, extends the time. (NRS 258.060, 289.470, 289.550) ~~Sections 10 and 14~~ of this bill ~~provide~~ **provides** that ~~(1)~~ a person appointed as a deputy constable for a township ~~in a county whose population is 700,000 or more (currently Clark County)~~ **whose boundaries include a city whose population is 150,000 or more (currently Henderson, Las Vegas, North Las Vegas and Reno)** must be certified as a category II peace officer by the Commission before he or she commences employment as a deputy constable. ~~(2) a person reemployed as a deputy constable for a township in a county whose population is less than 700,000 (currently counties other than Clark) after a separation of employment as a deputy constable for that township is not entitled to an additional period within which to be certified as a category II peace officer by the Commission.~~

Existing law authorizes the board of county commissioners to appoint clerks for the constable of a township and to provide compensation for those clerks. (NRS 258.065) **Section 11** of this bill authorizes the constable to appoint clerical and operational staff for the office of the constable, subject to the approval of the board of county commissioners, and requires the board of county commissioners to fix the compensation of the clerical and operational staff of the constable's office. **Section 11** further provides that the clerical and operational staff of a constable's office do not have the powers of a peace officer and may not possess a weapon or carry a concealed firearm while performing the duties of the constable's office.

Existing law provides that a constable is a peace officer in his or her township and may issue a citation to the owner or driver of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. (NRS 258.070, 482.385) **Sections 12, 15 and 16** of this bill clarify that the constable may issue such a citation only if the vehicle is located in his or her township at the time the citation is issued.

~~Section 8.8~~ of this bill authorizes the board of county commissioners to establish, by resolution or ordinance, penalties to be imposed on a constable who fails to file a report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training

Commission. **Section 9** of this bill requires the oath of a constable to be filed and recorded in the office of the recorder of the county.

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

Section 1. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➔ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance,

the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

- (a) Identify the court that has jurisdiction over the matter; and
- (b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home, *recreational vehicle* or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home, *recreational vehicle* or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.
- (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.
- (4) The date the rental payments became delinquent.
- (5) The length of time the tenant has remained in possession without paying rent.
- (6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

↳ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 107.087 is hereby amended to read as follows:

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property not later than:

(1) For a notice of default and election to sell, 100 days before the date of sale; or

(2) For a notice of sale, 15 days before the date of sale; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than ~~13 business days after the notice of~~

~~the sale is given pursuant to subsection 4 of NRS 107.080.~~ 15 days before the date of sale. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness;

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

- (1) You will be given at least 10 days to answer a summons and complaint;
- (2) If you do not file an answer, an order evicting you by default may be obtained against you;
- (3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and
- (4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or ~~the~~ sheriff ~~of~~ **of the county in which the property is located.**

5. As used in this section, “residential foreclosure” has the meaning ascribed to it in NRS 107.080.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. NRS 171.124 is hereby amended to read as follows:

171.124 1. Except as otherwise provided in subsection 3 and NRS 33.070, ~~and~~ 33.320, ~~and~~ **and 258.070**, a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

- (a) For a public offense committed or attempted in the officer’s presence.
- (b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer’s presence.
- (c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.
- (d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.
- (e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has

reasonable cause to believe that the person arrested is the person so named or described.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

Sec. 8. Chapter 258 of NRS is hereby amended by adding thereto ~~to a new section to read as follows:~~ **the provisions set forth as sections 8.1 to 8.8, inclusive, of this act.**

Sec. 8.1. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 8.2, 8.3 and 8.4 of this act have the meanings ascribed to them in those sections.

Sec. 8.2. "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

Sec. 8.3. "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

Sec. 8.4. "Peace officer" has the meaning ascribed to it in NRS 289.010.

Sec. 8.6. 1. Each constable of a township that has within its boundaries a city whose population is 150,000 or more shall become certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.

2. If a constable does not comply with the provisions of subsection 1, the constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030.

Sec. 8.8. In addition to any fine imposed pursuant to NRS 258.200, a board of county commissioners may establish, by resolution or ordinance, penalties for the failure of the constable of a township in the county to file any report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission.

Sec. 9. NRS 258.020 is hereby amended to read as follows:

258.020 Each constable elected or appointed in this state shall, before entering upon the duties of office:

1. Take the oath prescribed by law. ***The oath must be filed and recorded in a book provided for that purpose in the office of the recorder of the***

county within which the constable legally holds and exercises his or her office.

2. Execute a bond to the State of Nevada, to be approved by the board of county commissioners, in the penal sum of not less than \$1,000 nor more than \$3,000, as may be designated by the board of county commissioners. ~~The bond shall~~ **must** be conditioned for the faithful performance of the duties of his or her office ~~and shall~~ **must** be filed in the county clerk's office.

Sec. 10. NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment. ***A person who is appointed as a deputy constable in a ~~county whose population is 700,000~~ township that has within its boundaries a city whose population is 150,000 or more may not commence employment as a deputy constable until the person is certified by the Peace Officers' Standards and Training Commission as a category II peace officer.*** The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded ***within 30 days after the appointment*** in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section ~~and~~ ***within 30 days after the revocation of the appointment.*** From the time of the filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

Sec. 11. NRS 258.065 is hereby amended to read as follows:

258.065 1. ~~The board of county commissioners may appoint for the~~ constable of a township ~~a reasonable number of clerks~~ ***may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff*** as the work of the constable requires. ~~and provide compensation therefor.~~ ***The compensation of any person so appointed must be fixed by the board of county commissioners.***

2. *A person who is employed as clerical or operational staff of a constable:*

(a) *Does not have the powers of a peace officer; and*

(b) *May not possess a weapon or carry a concealed firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.*

3. A constable's clerk shall take the constitutional oath of office and give bond in the sum of \$2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

~~§~~ 4. A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

Sec. 12. NRS 258.070 is hereby amended to read as follows:

258.070 1. ~~Each~~ **Subject to the provisions of subsection 2, each** constable shall:

(a) Be a peace officer in his or her township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that the constable is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. ***A constable or deputy constable elected or appointed in a township that has within its boundaries a city whose population is less than 150,000 may not arrest any person while carrying out the duties of the office of constable.***

3. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle ~~that~~ ***which is located in his or her township at the time the citation is issued and which*** is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of \$100 from the person to whom the citation is issued, which may be retained by the constable as compensation.

~~§~~ 4. If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a

preliminary examination or hearing. The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 12.5. NRS 258.110 is hereby amended to read as follows:

258.110 ~~##~~ Unless, pursuant to subsection 2 of NRS 258.070, a constable is prohibited from making an arrest, any constable ~~shall~~ who willfully ~~refuse~~ refuses to receive or arrest any person charged with a criminal offense, ~~such constable~~ is guilty of a gross misdemeanor and shall be removed from office.

Sec. 13. NRS 258.190 is hereby amended to read as follows:

258.190 1. ~~On~~ In each calendar year, on the first Monday of January, April, July and October, the constables who receive fees under the provisions of this chapter shall make out and file with the boards of county commissioners of their several counties a full and correct statement under oath of all fees or compensation, of whatever nature or kind, received in their several official capacities during the preceding 3 months. In the statement they shall set forth the cause in which, and the services for which, such fees or compensation were received.

2. Nothing in this section shall be so construed as to require personal attendance in filing statements, which may be transmitted by mail or otherwise directed to the clerk of the board of county commissioners.

Sec. 14. NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2 ~~and 3~~ and NRS 3.310, ~~and~~ 4.353 ~~and~~ 258.060, and section 8.6 of this act, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. ~~A person who is appointed pursuant to NRS 258.060 as a deputy constable of a township in a county whose population is less than 700,000 following a separation of employment as a deputy constable of that township must be certified by the Commission within the period prescribed by subsection 1 as measured from the date on which the deputy constable commenced his or her initial employment as a deputy constable of that township.~~

~~3.~~ The following persons are not required to be certified by the Commission:

- (a) The Chief Parole and Probation Officer;
- (b) The Director of the Department of Corrections;
- (c) The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;
- (d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;
- (e) Railroad police officers; and
- (f) California correctional officers.

Sec. 14.5. NRS 482.231 is hereby amended to read as follows:

482.231 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

(a) Was cited by a constable pursuant to subsection ~~12~~ 3 of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and

(b) Has failed to pay the fee charged by the constable pursuant to subsection ~~12~~ 3 of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

(a) The Department receives:

(1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or

(2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and

(b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

Sec. 15. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, the owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, including a constable ~~+~~ ***of the township in which the motor vehicle is located*** or a justice of the peace or *a* deputy of the Department.

3. No person charged with violating this section may be convicted if the person produces in court a certificate of registration which was previously issued to him or her and was valid at the time of the demand.

Sec. 16. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsections 5 and 7 and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State:

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:

(1) On active duty in the military service of the United States;

(2) An out-of-state student;

(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or

(4) A migrant or seasonal farm worker.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. Except as otherwise provided in subsection 5, when a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within 30 days after becoming a resident; or

(b) At the time he or she obtains a driver's license,

↪ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the

penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to subsection 1, 3 or 5 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

5. Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:

- (a) On active duty in the military service of the United States;
- (b) An out-of-state student;
- (c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or
- (d) A migrant or seasonal farm worker.

6. A person who violates the provisions of subsection 1, 3 or 5 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 4. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within 30 days after beginning its operation within this State.

8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, 7 or 9 or pursuant to NRS 482.390:

- (a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and
- (b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State;

(b) The vehicle is used in this State for a gainful purpose;

(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or

(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.

12. *A constable may issue a citation for a violation of this section only if the vehicle is located in his or her township at the time the citation is issued.*

13. As used in this ~~subsection,~~ section, “peace officer” includes a constable.

Sec. 16.5. 1. The provisions of section 8.6 of this act do not apply to a constable who is in office on July 1, 2013, unless the constable is elected or appointed to a term of office on or after July 1, 2013.

Sec. 17. This act becomes effective on July 1, 2013.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 764 to Assembly Bill No. 223.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 240.

The following Senate amendment was read:

Amendment No. 737.

AN ACT relating to civil actions; revising provisions governing comparative negligence; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that in any action to recover damages for death or injury to persons or property where comparative negligence is asserted as a

defense, the comparative negligence of the plaintiff or the plaintiff's decedent does not bar a recovery if that negligence was not greater than the negligence or gross negligence of the parties against whom recovery is sought. ~~[Where recovery is allowed against more than one defendant in such an action, except in certain cases, each defendant is severally liable to the plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to that defendant.]~~ (NRS 41.141) This bill **revises the applicability of that provision by making the provision applicable to actions in which comparative negligence is a bona fide issue, rather than actions in which comparative negligence is asserted as a defense.** ~~[clarifies that where recovery is allowed against more than one defendant, the liability of the defendants is joint and several, rather than several, unless the trier of fact finds comparative negligence on the part of the plaintiff or the plaintiff's decedent.]~~

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

Section 1. NRS 41.141 is hereby amended to read as follows:

41.141 1. In any action to recover damages for death or injury to persons or for injury to property in which ~~[the trier of fact finds]~~ comparative negligence is ~~[asserted as a defense.]~~ ~~[on the part of the plaintiff or the plaintiff's decedent.]~~ **a bona fide issue,** the comparative negligence of the plaintiff or the plaintiff's decedent does not bar a recovery if that negligence was not greater than the negligence or gross negligence of the parties to the action against whom recovery is sought. **Comparative negligence is not a bona fide issue if the trier of fact finds no comparative negligence on the part of the plaintiff or the plaintiff's decedent.**

2. In ~~[those]~~ cases ~~[]~~ **in which comparative negligence is asserted as a defense,** ~~[]~~ **a bona fide issue,** the judge shall instruct the jury that:

(a) The plaintiff may not recover if the plaintiff's comparative negligence or that of the plaintiff's decedent is greater than the negligence of the defendant or the combined negligence of multiple defendants.

(b) If the jury determines the plaintiff is entitled to recover, it shall return:

(1) By general verdict the total amount of damages the plaintiff would be entitled to recover without regard to the plaintiff's comparative negligence; and

(2) A special verdict indicating the percentage of negligence attributable to each party remaining in the action.

3. If a defendant in such an action settles with the plaintiff before the entry of judgment, the comparative negligence of that defendant and the amount of the settlement must not thereafter be admitted into evidence nor considered by the jury. The judge shall deduct the amount of the settlement

from the net sum otherwise recoverable by the plaintiff pursuant to the general and special verdicts.

4. Where recovery is allowed against more than one defendant in such an action, ~~in which the trier of fact finds comparative negligence on the part of the plaintiff or the plaintiff's decedent,~~ except as otherwise provided in subsection 5, each defendant is severally liable to the plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to that defendant.

5. This section does not affect the joint and several liability, if any, of the defendants in an action based upon:

- (a) Strict liability;
- (b) An intentional tort;
- (c) The emission, disposal or spillage of a toxic or hazardous substance;
- (d) The concerted acts of the defendants; or
- (e) An injury to any person or property resulting from a product which is manufactured, distributed, sold or used in this State.

6. As used in this section:

(a) "Concerted acts of the defendants" does not include negligent acts committed by providers of health care while working together to provide treatment to a patient.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 737 to Assembly Bill No. 240.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Thank you, Madam Speaker. Amendment 737 provides that comparative negligence is not a bona fide issue if the trier of fact finds no comparative negligence on the part of the plaintiff or the plaintiff's decedent.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 262.

The following Senate amendment was read:

Amendment No. 639.

AN ACT relating to child custody; authorizing a court to award costs and the reasonable fees of attorneys and experts to a party in certain actions concerning child custody or visitation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that in an action to determine the parentage of a child, the court may order that the reasonable fees of counsel, experts and the

child's guardian ad litem, and other costs of the action, be paid in such proportions as determined by the court. (NRS 126.171, 126.231) Existing law further provides that in an action for divorce, the court may award a reasonable attorney's fee to either party, if those fees are in issue under the pleadings. (NRS 125.150) This bill provides that in an action to determine custody or visitation with respect to a child, the court may order that the reasonable fees of counsel and experts, and other costs of the action, be paid in proportions and at times determined by the court ~~. If these fees and costs are in issue under the pleadings. }~~

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

Section 1. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NRS 125C.180, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court ~~. If these fees and costs are in issue under the pleadings. }~~

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 639 to Assembly Bill No. 262.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 313.

The following Senate amendment was read:

Amendment No. 740.

~~SUMMARY—Prohibits the tracking of a mobile phone by an investigative or law enforcement officer without a court order in certain circumstances.~~ **Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice.** (BDR 14-421)

~~AN ACT relating to criminal procedure; generally prohibiting an investigative or law enforcement officer from tracking a mobile phone without a court order; authorizing certain investigative or law enforcement officers to apply to the district court for such an order or extension thereof; authorizing district courts to enter an order authorizing the tracking of a mobile phone in certain circumstances;~~ **creating a statutory subcommittee of the Advisory Commission on the Administration of Justice to consider issues concerning electronic surveillance by law enforcement;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~† Section 4 of this bill authorizes an investigative or law enforcement officer who is responsible for an ongoing criminal investigation to apply to the district court for an order or an extension of an order which authorizes the tracking of a mobile phone. Section 5 of this bill authorizes the district court to enter an ex parte order authorizing the tracking of a mobile phone if the court determines that there is probable cause for belief that the information likely to be obtained by such tracking is relevant to the ongoing criminal investigation. Such an order or extension of an order cannot exceed 30 days. Section 3 of this bill generally prohibits an investigative or law enforcement officer from tracking a mobile phone without obtaining such an order.~~

This bill creates in statute the Subcommittee on Search and Seizure Law and Technology of the Advisory Commission on the Administration of Justice. This bill requires: (1) the Chair of the Commission to appoint the members of the Subcommittee; (2) that the Subcommittee consist of legislative members and certain nonlegislative members; (3) the Chair of the Subcommittee to be a legislative member of the Commission; and (4) the Subcommittee to consider issues concerning electronic surveillance by law enforcement and to evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation. This bill also sets forth the salaries and per diem that members of the Subcommittee may receive.

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

Delete existing sections 1 through 5 of this bill and replace with the
following new sections 1 through 3:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on Search and Seizure Law and Technology of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:

(a) A representative of the public defender's office in Washoe County.

(b) A representative of the public defender's office in Clark County.

(c) A representative of the State Public Defender's Office.

(d) A member of the private criminal defense bar.

(e) A representative of a civil liberties organization.

(f) A representative of the district attorney's office in Washoe County.

(g) A representative of the district attorney's office in Clark County.

(h) A representative of the Attorney General.

(i) A representative of a law enforcement agency located within the jurisdiction of Washoe County.

(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.

(k) A representative of the academic community with specialized knowledge in the field of search and seizure law and technology.

(l) A representative from the compliance division of a national telecommunications carrier authorized to do business in this State.

3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall consider issues concerning electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices, and shall evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 2. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, **and section 1 of this act,** "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 3. This act becomes effective on July 1, 2013, and expires by limitation on July 31, 2015.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 740 to Assembly Bill No. 313.

Remarks by Assemblyman Frierson.

Motion carried.

The following Senate amendment was read:

Amendment No. 888.

SUMMARY ~~{Creates a statutory subcommittee of}~~ **Requires** the Advisory Commission on the Administration of Justice ~~{(BDR 14-421)}~~ **to consider certain items regarding criminal procedure. (BDR S-421)**

AN ACT relating to criminal procedure; ~~{creating a statutory subcommittee of}~~ **requiring** the Advisory Commission on the Administration of Justice to consider issues concerning electronic surveillance by law enforcement ~~{;}~~ **traffic laws and certain laws relating to motor vehicles, and language access in the courts;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) This bill ~~{creates in statute the Subcommittee on Search and Seizure Law and Technology of}~~ **requires** the ~~{Advisory}~~ Commission ~~{on the Administration of Justice. This bill requires: (1) the Chair of the Commission to appoint the members of the Subcommittee; (2) that the Subcommittee consist of legislative members and certain nonlegislative members; (3) the Chair of the Subcommittee to be a legislative member of the Commission; and (4) the Subcommittee}~~ to **:(1) consider issues concerning electronic surveillance by law enforcement and to evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation. This bill also sets forth the salaries and per diem that members of the Subcommittee may receive.;** **(2) evaluate issues related to certain traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses or civil infractions; and (3) evaluate issues concerning language access in the courts.**

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

Section 1. ~~{Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. There is hereby created the Subcommittee on Search and Seizure Law and Technology of the Commission.~~

~~2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:~~

~~(a) A representative of the public defender's office in Washoe County.~~

~~(b) A representative of the public defender's office in Clark County.~~

~~(c) A representative of the State Public Defender's Office.~~

~~(d) A member of the private criminal defense bar.~~

~~(e) A representative of a civil liberties organization.~~

~~(f) A representative of the district attorney's office in Washoe County.~~

~~(g) A representative of the district attorney's office in Clark County.~~

~~(h) A representative of the Attorney General.~~

~~(i) A representative of a law enforcement agency located within the jurisdiction of Washoe County.~~

~~(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.~~

~~(k) A representative of the academic community with specialized knowledge in the field of search and seizure law and technology.~~

~~(l) A representative from the compliance division of a national telecommunications carrier authorized to do business in this State.~~

~~3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.~~

~~4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.~~

~~5. The Subcommittee shall consider issues concerning electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices, and shall evaluate, review and submit a report to the Commission with findings and recommendations concerning such issues for proposed legislation.~~

~~6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.~~

~~7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. (Deleted by amendment.)~~

~~Sec. 2. NRS 176.0121 is hereby amended to read as follows:~~

~~176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 1 of this act, "Commission" means the Advisory Commission on the Administration of Justice. (Deleted by amendment.)~~

Sec. 2.5. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:

1. A review of the use of electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices.

2. An evaluation of the policies and practices relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, with consideration as to whether it is feasible and advisable to treat such violations as civil matters and, if so, the issues involved in implementing a system to treat such violations as civil matters.

3. An evaluation of:

(a) The current system used in this State to provide court interpreters in criminal and civil proceedings;

(b) The systems used in other states to provide court interpreters in criminal and civil proceedings; and

(c) The current condition of federal and state laws regarding the provision of court interpreters in criminal and civil proceedings.

4. Recommendations regarding, without limitation:

(a) Necessary statutory changes to facilitate language access in the courts;

(b) Necessary statutory changes to comply with any federal law related to language access in the courts; and

(c) Methods for raising any revenue necessary to provide court interpreters in criminal and civil proceedings or to increase language access in the courts.

~~Sec. 3. This act becomes effective on July 1, 2013, and expires by limitation on July 31, 2015.~~

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 888 to Assembly Bill No. 313.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 377.

The following Senate amendment was read:

Amendment No. 828.

AN ACT relating to crimes; revising the provisions governing the crime of sexual conduct between certain school employees or volunteers at a school and a pupil; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person who is employed in a position of authority or who volunteers in a position of authority at a public or private school from engaging in sexual conduct with a pupil who is enrolled in or attending the public school or private school at which the person is employed or volunteering. (NRS 201.540) This bill expands this provision by prohibiting a person who is or was employed in a position of authority or who volunteers or volunteered in a position of authority at a public school or private school from engaging in sexual conduct with a pupil : **(1) who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or (2)** with whom the person has had contact in the course of performing his or her duties as an employee or volunteer.

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

Section 1. NRS 201.540 is hereby amended to read as follows:

201.540 1. Except as otherwise provided in subsection 4, a person who:

(a) Is 21 years of age or older;

(b) Is *or was* employed in a position of authority by a public school or private school or *is or was* volunteering in a position of authority at a public or private school; and

(c) Engages in sexual conduct with a pupil who ~~is~~

~~(1) Who~~ is 16 or 17 years of age ~~is~~ and ~~with~~;

(1) Who is or was enrolled in or attending the public school or private school at which

~~is~~ **(2) With whom** the person is *or was* employed or volunteering ~~is~~; **or**

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection 4, a person who:

(a) Is 21 years of age or older;

(b) Is *or was* employed in a position of authority by a public school or private school or *is or was* volunteering in a position of authority at a public or private school; and

(c) Engages in sexual conduct with a pupil who ~~is~~

~~(1) Who~~ is 14 or 15 years of age ~~is~~ and ~~with~~;

(1) Who is or was enrolled in or attending the public school or private school at which

~~is~~ **(2) With whom** the person is *or was* employed or volunteering ~~is~~; **or**

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

↪ 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. For the purposes of subsections 1 and 2, a person shall be deemed to be *or have been* employed in a position of authority by a public school or private school or deemed to be *or have been* volunteering in a position of authority at a public or private school if the person is *or was* employed or volunteering as:

(a) A teacher or instructor;

(b) An administrator;

(c) A head or assistant coach; or

(d) A teacher's aide or an auxiliary, nonprofessional employee who assists licensed personnel in the instruction or supervision of pupils pursuant to NRS 391.100.

4. The provisions of this section do not apply to a person who is married to the pupil.

Sec. 2. This act becomes effective on July 1, 2013.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 828 to Assembly Bill No. 377.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Amendment 828 adds a prohibition for a person who is or was employed or volunteering in a position of authority at a school from engaging in sexual conduct with a pupil who is or was enrolled at the school at which the person was employed or volunteering.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 378.

The following Senate amendment was read:

Amendment No. 754.

AN ACT relating to spendthrift trusts; revising provisions governing self-settled spendthrift trusts; revising provisions governing the transfer of ~~community~~ property to a spendthrift trust; ~~prohibiting certain~~ **revising provisions governing** persons ~~from being~~ **who act as** a distribution trustee **or distribution adviser** of a spendthrift trust; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person to create a spendthrift trust, which is a trust the terms of which provide that the interest of a beneficiary may not be transferred voluntarily or involuntarily to another person. (NRS 166.020, 166.040) Under existing law, a beneficiary of a spendthrift trust may not

transfer his or her interest in the trust and a creditor of the beneficiary may not satisfy the creditor's claim from the beneficiary's interest in the trust. (NRS 166.120) Existing law further authorizes the creation of self-settled spendthrift trusts, which are spendthrift trusts in which the settlor is a beneficiary. Under existing law, a self-settled spendthrift trust may be created only if the trust is irrevocable, does not require any part of the income or principal to be distributed to the settlor and is not be intended to hinder, delay or defraud known creditors. (NRS 166.040)

~~† Section 1.3 of this bill provides that a self-settled spendthrift trust is not enforceable against the settlor's child, spouse or domestic partner, or former spouse or domestic partner who has a judgment or court order against the settlor for support or maintenance. Section 1.3 further authorizes: (1) the settlor's child, spouse or domestic partner, or former spouse or domestic partner to obtain a court order attaching present or future distributions from a self-settled spendthrift trust to or for the benefit of the settlor; and (2) authorizes a court to order distributions from a self-settled spendthrift trust to satisfy a judgment or court order against the settlor for the support or maintenance of his or her child, spouse or domestic partner or former spouse or domestic partner. Section 1.6 of this bill enacts provisions governing the transfer of community property to a spendthrift trust.~~

Section 1.2 of this bill provides that a transfer of property to a self-settled spendthrift trust is presumed to be made with actual intent to defraud an obligee named in a family support order and is void if: (1) the transfer is made after the commencement of a domestic relations proceeding; (2) the transfer is made less than 2 years before the commencement of such a proceeding; (3) the transfer is made while the settlor is subject to certain family support orders; or (4) a court order expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or a domestic partner or former domestic partner, or for the benefit of such a person. Section 1.2 further provides that under certain circumstances, a trustee of a self-settled spendthrift trust is required to provide written notice of certain distributions from the trust to an obligee named in a family support order. Section 3 of this bill provides that the provisions of section 1.2 apply only to: (1) family support orders issued on or after October 1, 2013; (2) transfers of property to a self-settled spendthrift trust made on or after October 1, 2013; and (3) distributions from a self-settled spendthrift trust made on or after October 1, 2013.

Section 1.9 of this bill prohibits the settlor, certain relatives and employees of the settlor, and business entities in which the settlor or certain relatives or employees of the settlor hold certain voting power, from ~~being~~ **acting as a**

distribution trustee or a distribution adviser of a self-settled spendthrift trust ~~is~~ while the settlor is subject to a family support order.

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

Section 1. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~166~~ **1.1** and ~~166~~ **1.2** of this act.

Sec. 1.1. As used in this chapter, unless the context otherwise requires, the term “domestic partner” means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS and that has not been terminated pursuant to that chapter.

Sec. 1.2. 1. Notwithstanding any other provision of law, a transfer of property to a self-settled spendthrift trust is presumed to be made with actual intent to defraud each obligee of a domestic relations order, and the transfer is presumed void as to each such obligee, if:

(a) The transfer is made after the commencement of a domestic relations proceeding;

(b) The transfer is made within the 2 years immediately preceding the commencement of a domestic relations proceeding;

(c) The transfer is made while the settlor is subject to a family support order; or

(d) An order, judgment or decree of a court of competent jurisdiction expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

2. Regardless of whether the self-settled spendthrift trust or the trustee of the self-settled spendthrift trust is a party to an action resulting in a family support order, the trustee shall, not later than 30 days before making a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor, provide written notice of the distribution to each obligee named in the family support order, if the family support order expressly requires such notice. A written notice required by this subsection must:

(a) State:

(1) The date on which the distribution will be made;

(2) The amount of the distribution; and

(3) The manner in which payment of the distribution will be made.

(b) Unless a written agreement entered into by the obligee who is required to be provided the written notice provides otherwise, be sent by personal delivery, by certified mail, return receipt requested, or by any other delivery service for which a receipt for delivery is obtained to the

address provided to the trustee by the obligee required to be provided the written notice.

3. If, after an obligee named in a family support order provides a copy of the family support order to the trustee and an address to which the written notice required by subsection 2 is to be sent, the trustee makes a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor and who is an obligor named in the family support order without sending the written notice required by subsection 2, the trustee is personally liable to the obligee for the lesser of:

(a) The amount of such distribution; and

(b) The amount due the obligee pursuant to the family support order, unless the trustee establishes to the satisfaction of the court having jurisdiction to enforce the family support order that the information required to be provided in the written notice would not have facilitated enforcement of the family support order.

4. As used in this section:

(a) "Child" means a person to whom a settlor of a self-settled spendthrift trust owes a parental duty of support pursuant to:

(1) The laws of this State;

(2) A written agreement to which the settlor is a party; or

(3) The order of a court of competent jurisdiction.

(b) "Distribution" includes, without limitation, a distribution from a self-settled spendthrift trust to a person other than a beneficiary who is a settlor for the benefit of a beneficiary who is a settlor. The term does not include an authorization given by the trustee of a self-settled spendthrift trust for a beneficiary who is a settlor to use an asset of the self-settled spendthrift trust, the title to which remains in the trust, including, without limitation, a residence or vehicle.

(c) "Domestic relations order" means a family support order or a property transfer order.

(d) "Domestic relations proceeding" means a legal proceeding that may result in the issuance of a domestic relations order, including, without limitation, an action for divorce, annulment or separate maintenance pursuant to chapter 125 of NRS or any proceeding related to the termination of a domestic partnership that is registered pursuant to chapter 122A of NRS.

(e) "Family support order" means a judgment, decree or order of a court for the support or maintenance of a child, spouse or former spouse, or domestic partner or former domestic partner.

(f) "Obligee" means:

(1) With respect to a family support order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered the payment of support or maintenance.

(2) With respect to a property transfer order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered one or more property transfers.

(g) "Property transfer order" means an order, judgment or decree of a court which requires the transfer of property to a child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

(h) "Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.

~~Sec. 1.3. 1. Notwithstanding any other provision of law, if a spendthrift trust is a self settled spendthrift trust:~~

~~(a) The trust is unenforceable against the settlor's child, spouse or domestic partner, or former spouse or domestic partner who has a judgment or court order against the settlor for support or maintenance; and~~

~~(b) A claimant against whom the trust cannot be enforced pursuant to paragraph (a) may obtain from a court an order attaching present or future distributions to or for the benefit of a beneficiary of the trust who is a settlor of the trust.~~

~~2. Notwithstanding any other provision of law, if a trustee of a self settled spendthrift trust has discretion to determine whether or not to make a distribution to a beneficiary who is a settlor of the trust:~~

~~(a) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary who is a settlor of the trust for the support or maintenance of that beneficiary's child, spouse or domestic partner, or former spouse or domestic partner; and~~

~~(b) The court shall direct the trustee to pay to the child, spouse or domestic partner, or former spouse or domestic partner such amount as is equitable under the circumstances.~~

~~3. Notwithstanding any other provision of law, if a child, spouse or domestic partner, or former spouse or domestic partner has a judgment or court order for support or maintenance against a beneficiary of a self settled spendthrift trust who is a settlor of the trust, the child, spouse or domestic partner, or former spouse or domestic partner may reach a distribution of income or principal which the trustee is required to make to that beneficiary under the terms of the trust, including, without limitation, a distribution upon termination of the trust.~~

~~4. As used in this section:~~

~~(a) "Domestic partner" means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS, and that has not been terminated pursuant to that chapter.~~

~~(b) "Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.] (Deleted by amendment.)~~

~~Sec. 1.6. 1. A transfer of community property to a spendthrift trust is void unless both spouses or domestic partners, whichever is applicable, agree to the transfer in a writing which expressly waives the community property rights of each spouse or domestic partner, whichever is applicable, in the property being transferred to the trust. An agreement between spouses or domestic partners pursuant to this subsection must meet the standards which govern the actions of persons occupying relations of confidence and trust toward each other.~~

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

~~(a) "Community property" means property that is community property pursuant to NRS 123.220.~~

~~(b) "Domestic partner" has the meaning ascribed to it in NRS 122A.030.] (Deleted by amendment.)~~

Sec. 1.9. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

(a) All or part of the land, rents, issues or profits affected are in this State;

(b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;

(c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or

(d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust ~~at~~ :

(a) At least one trustee of a spendthrift trust must be:

~~(a)~~ (1) A natural person who resides and has his or her domicile in this State;

~~(b)~~ (2) A trust company that:

~~(1)~~ (1) Is organized under federal law or under the laws of this State or another state; and

~~(2)~~ (2) Maintains an office in this State for the transaction of business; or

~~(c)~~ (3) A bank that:

~~(1)~~ (1) Is organized under federal law or under the laws of this State or another state;

~~{(2)}~~ **(II)** Maintains an office in this State for the transaction of business; and

~~{(3)}~~ **(III)** Possesses and exercises trust powers.

(b) ~~The~~ At any time a settlor is subject to a family support order as defined in section 1.2 of this act:

(1) The following persons ~~may~~ must not ~~be~~ act as a distribution trustee ~~+~~ or a distribution adviser:

~~{(1)}~~ **(I) The settlor;**

~~{(2)}~~ **(II) The spouse or domestic partner of the settlor;**

~~{(3)}~~ **(III) Any person related to the settlor by blood, adoption or marriage within the second degree of consanguinity or affinity;**

~~{(4)}~~ **(IV) An employee of the settlor;**

~~{(5)}~~ **(V) A subordinate employee of the settlor or of a business entity in which the settlor is an executive; or**

~~{(6)}~~ **(VI) A business entity in which the settlor, or any person listed in ~~subparagraphs (2) to (5),~~ sub-subparagraphs (II) to (V), inclusive, holds at least 30 percent of the total voting power of all interests entitled to vote.**

~~3. As used in this section, "domestic partner" has the meaning ascribed to it in NRS 122A.030.~~

(2) Notwithstanding any provision of the trust agreement, a distribution as defined in section 1.2 of this act must not be made to the settlor unless the distribution is subject to the discretion of a distribution trustee or a distribution adviser who is not prohibited from acting as a distribution trustee or distribution adviser pursuant to subparagraph (1).

(3) The trust is not made void by:

(I) The lack of a distribution trustee or a distribution adviser; or

(II) The appointment or existence of a distribution trustee or a distribution adviser who is unable to act as a distribution trustee or a distribution adviser pursuant to subparagraph (1).

Sec. 2. (Deleted by amendment.)

Sec. 3. **The provisions of section 1.2 of this act apply only to:**

1. A family support order, as defined in section 1.2 of this act, issued on or after October 1, 2013.

2. A transfer of property to a self-settled spendthrift trust, as defined in section 1.2 of this act, made on or after October 1, 2013.

3. A distribution, as defined in section 1.2 of this act, from a self-settled spendthrift trust made on or after October 1, 2013.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 754 to Assembly Bill No. 378.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 395.

The following Senate amendment was read:

Amendment No. 739.

AN ACT relating to common-interest communities; prohibiting certain persons within a common-interest community from committing certain acts against another person within that same common-interest community; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill: (1) prohibits certain persons within a common-interest community from committing certain acts against another person within that same common-interest community; and (2) provides that committing any such act is a ~~public nuisance and punishable as a~~ misdemeanor.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A community manager, an agent or employee of the community manager, a member of the executive board, an officer, employee or agent of an association, a unit's owner or a guest or tenant of a unit's owner shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person who is the community manager of his or her common-interest community or an agent or employee of that community manager, a member of the executive board of his or her association, an officer, employee or agent of his or her association, another unit's owner in his or her common-interest community or a guest or tenant of a unit's owner in his or her common-interest community which:

(a) Causes harm or serious emotional distress, or the reasonable apprehension thereof, to that person; or

(b) Creates a hostile environment for that person.

2. A person who violates the provisions of subsection 1 ~~commits a public nuisance and shall be punished as provided in NRS 202.470.~~ is guilty of a misdemeanor.

Sec. 2. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.

3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, **and section 1 of this act** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.

Sec. 3. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, “violation” means a violation of ~~any~~ :

1. Any provision of this chapter ~~to any~~ **except section 1 of this act;**

2. Any regulation adopted pursuant ~~thereto~~ **to this chapter;** or ~~any~~

3. Any order of the Commission or a hearing panel.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 739 to Assembly Bill No. 395.

Remarks by Assemblyman Frierson.

ASSEMBLYMAN FRIERSON:

Amendment 739 removes the provision concerning the behavior constituting a public nuisance and instead maintains that provisions of Chapter 116 provide that a person who demonstrates such behavior is guilty of a misdemeanor.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 415.

The following Senate amendment was read:

Amendment No. 706.

AN ACT relating to criminal justice; revising provisions governing the crime of burglary; **revising provisions governing the crime of vagrancy;** authorizing the Advisory Commission on the Administration of Justice to apply for and accept certain money; requiring the Commission to study and report on certain issues; authorizing each county to establish a community court pilot project to provide an alternative to sentencing a person who is charged with a misdemeanor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a person who enters certain structures with the intent to commit grand or petit larceny, assault or battery, any felony or to obtain money by false pretenses is guilty of the crime of burglary. (NRS 205.060) Existing law also provides that a person commits the crime of

petit larceny if the person intentionally steals, takes and carries, leads or drives away certain goods or property. (NRS 205.240) **Section 1** of this bill removes the crime of petit larceny from the underlying offenses which constitute burglary if the petit larceny was intended to be committed in a commercial establishment during business hours and the person has not **: (1) twice previously been convicted of ~~to similar offense~~ petit larceny** within the previous 7 years **1.1; or (2) previously been convicted of a felony.**

Existing law prohibits a person from lodging in any building, structure or place without certain permission. (NRS 207.030) Section 1.5 of this bill further prohibits a person from lodging in such a place if the property is the subject of a notice of default and election to sell or is placed on a registry of vacant, abandoned or foreclosed property, unless the person is the owner, tenant or otherwise entitled to possession of the property.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) **Section 3** of this bill authorizes the Chair of the Commission to apply for grants and accept grants, bequests, devises, donations and gifts. **Section 8** of this bill requires the Commission to include certain items relating to criminal justice on an agenda for discussion and to issue a report.

Existing law provides that a misdemeanor is punishable by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both a fine and imprisonment. (NRS 193.150) **Section 10** of this bill authorizes each county to establish a community court pilot project within any of its justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor. **Section 11** of this bill requires the community court to evaluate each defendant to determine whether services or treatment is likely to assist the defendant to modify behavior or obtain skills that may prevent the defendant from engaging in further criminal activity. The services or treatment that the community court may order the defendant to receive may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or any other services or treatment that the community court deems appropriate. **Section 11** provides that if the defendant successfully completes all conditions imposed by the community court, the sentence to which the defendant agreed upon with the justice court must not be executed or recorded. If the defendant does not successfully complete the conditions imposed, the case will be transferred back to the justice court, and the sentence must be carried out.

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

Section 1. NRS 205.060 is hereby amended to read as follows:

205.060 1. ~~1A~~ *Except as otherwise provided in subsection 5, a person* who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary 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 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, 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 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

5. *The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted ~~of two~~ :*

(a) Two or more times for committing petit larceny ~~in a commercial establishment during business hours~~ within the immediately preceding 7 years ~~of~~ ; or

(b) Of a felony.

Sec. 1.5. NRS 207.030 is hereby amended to read as follows:

207.030 1. It is unlawful to:

(a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;

(b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;

(c) Be a pimp, panderer or procurer or live in or about houses of prostitution;

(d) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;

(e) Keep a place where lost or stolen property is concealed;

(f) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; or

(g) Lodge in any building, structure or place, whether public or private, ~~+~~
~~without~~ :

(1) Where a notice of default and election to sell has been recorded, unless the person is the owner, tenant or entitled to the possession or control thereof;

(2) Which has been placed on a registry of vacant, abandoned or foreclosed property by a local government, unless the person is the owner, tenant or entitled to the possession or control thereof; or

(3) Without the permission of the owner or person entitled to the possession or in control thereof.

2. A person who violates a provision of subsection 1 shall be punished:

(a) For the first violation of paragraph (a), (b) or (c) of subsection 1 and for each subsequent violation of the same paragraph occurring more than 3 years after the first violation, for a misdemeanor.

(b) For the second violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for not less than 30 days nor more than 6 months and by a fine of not less than \$250 nor more than \$1,000.

(c) For the third or subsequent violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

(d) For a violation of any provision of paragraphs (d) to (g), inclusive, of subsection 1, for a misdemeanor.

3. The terms of imprisonment prescribed by subsection 2 must be imposed to run consecutively.

4. A local government may enact an ordinance which regulates the time, place or manner in which a person or group of persons may beg or solicit alms in a public place or place open to the public.

Sec. 2. (Deleted by amendment.)

Sec. 3. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Chair of the Commission may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of this section and NRS 176.0121 to 176.0129, inclusive.*

2. *Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the Commission and its activities pursuant to this section and NRS 176.0121 to 176.0129, inclusive.*

Sec. 4. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, ***and section 3 of this act***, “Commission” means the Advisory Commission on the Administration of Justice.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123, shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:

(a) A review of sentencing for all criminal offenses for which a term of imprisonment of more than 1 year may be imposed.

(b) An evaluation of the current system of parole, including a review of whether the current system should be maintained, amended or abolished.

(c) An evaluation of potential legislation relating to offenders for whom traditional imprisonment is not considered appropriate. In evaluating such potential legislation, the Commission shall consider current practices governing sentencing and release from imprisonment and correctional resources, including, without limitation, the capacities of local and state correctional facilities and institutions.

2. Upon review of the issues pursuant to subsection 1, the Commission shall prepare a comprehensive report including the Commission’s recommended changes, the Commission’s findings and any recommendations for proposed legislation. The report must be submitted to the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary ~~no~~ **not** later than June 1, 2014.

Sec. 9. As used in sections 10 and 11 of this act, “community court” means the community court that is established as part of a pilot project pursuant to section 10 of this act.

Sec. 10. 1. Each county may establish a community court pilot project within any of the justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor.

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor may be transferred to the community court by the justice court if the defendant:

- (a) Pleads guilty to the offense;
- (b) Has not previously been referred to the community court;
- (c) Agrees to comply with the conditions imposed by the community court; and
- (d) Agrees to a sentence, including, without limitation, a period of imprisonment in the county jail, which must be carried out if the defendant does not successfully complete the conditions imposed by the community court.

3. When a defendant is transferred to the community court, sentencing must be postponed and, if the defendant successfully completes all conditions imposed by the community court, the sentence of the defendant must not be executed or appear on the record of the defendant. If the defendant does not successfully complete all conditions imposed by the community court, the sentence must be carried out.

4. A defendant who is transferred to the community court remains under the supervision of the community court and must comply with the conditions established by the community court.

5. Each county may collaborate with state and local governmental entities as well as private persons and entities to coordinate and determine the services and treatment that may be offered to defendants who are transferred to the community court.

6. A defendant does not have a right to be referred to the community court pursuant to this section. It is not intended that the establishment or operation of the community court creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees. The decision by the justice court of whether to refer a defendant to the community court is not subject to appeal.

Sec. 11. 1. The community court shall provide for the evaluation of each defendant transferred to the community court to determine whether services or treatment is likely to assist the defendant to modify his or her behavior or obtain skills which may prevent the defendant from engaging in further criminal activity. Such services or treatment may include, without

limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or such other services or treatment as the community court deems appropriate.

2. The community court shall provide or refer a defendant to a provider of such services or treatment. The community court may enter into contracts with persons or private entities that are qualified to evaluate defendants and provide services or treatment to defendants.

3. A defendant who is ordered by the community court to receive services or treatment shall pay for the services or treatment to the extent of his or her financial resources.

4. The justice court shall not refuse to refer a defendant to the community court based on the inability of the defendant to pay any or all of the related costs.

5. The community court shall order a defendant to perform a specified amount of community service in addition to any services or treatment to which the defendant is ordered to receive. Such community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

6. Notwithstanding any other provision of law, if a defendant successfully completes the conditions imposed by the community court, the community court shall so certify to the justice court, and the sentence imposed pursuant to section 10 of this act must not be executed or recorded. If the defendant does not successfully complete the conditions imposed by the community court, the case must be transferred back to the justice court, and the sentence must be carried out.

Assemblyman Frierson moved that the Assembly do not concur in the Senate Amendment No. 706 to Assembly Bill No. 415.

Remarks by Assemblyman Frierson.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Frierson moved that the Assembly recede from its action on Amendment No. 593 to Senate Bill No. 9.

Remarks by Assemblyman Frierson.

Motion carried.

Assemblyman Frierson moved that the Assembly do not recede from its action on Amendment No. 682 to Senate Bill No. 38, that a conference be

requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Frierson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Cohen, Dondero Loop, and Wheeler as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 38.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Ohrenschall moved that the Assembly do not recede from its action on Amendment No. 780 to Senate Bill No. 228, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Ohrenschall.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Ohrenschall, Daly, and Oscarson as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 228.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Dondero Loop moved that the Assembly do not recede from its action on Amendment No. 665 to Senate Bill No. 176, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Dondero Loop.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Spiegel, Thompson, and Hambrick as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 176.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Dondero Loop moved that the Assembly do not recede from its action on Amendment No. 775 to Senate Bill No. 410, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Dondero Loop.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblywoman Benitez-Thompson, Martin, and Duncan as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 410.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Dondero Loop moved that the Assembly do not recede from its action on Amendment No. 776 to Senate Bill No. 450, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Dondero Loop.
Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Eisen, Martin, and Oscarson as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 450.

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

Assembly in recess at 11:55 a.m.

ASSEMBLY IN SESSION

At 12:21 p.m.
Madam Speaker presiding.
Quorum present.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Frierson moved that the Assembly do not recede from its action on Amendment No. 751 to Senate Bill No. 425, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Frierson.
Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Thompson, and Hansen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 425.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Frierson moved that the Assembly do not recede from its action on Amendment No. 749 to Senate Bill No. 389, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Frierson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Bustamante Adams, Daly, and Hansen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 389.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Benitez-Thompson moved that the Assembly do not recede from its action on Amendment No. 722 to Senate Bill No. 364, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Benitez-Thompson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Neal, Healey, and Woodbury as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 364.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Benitez-Thompson moved that the Assembly recede from its action on Amendment No. 788 to Senate Bill No. 436.

Remarks by Assemblywoman Benitez-Thompson.

Motion carried.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 339.

The following Senate amendment was read:

Amendment No. 653.

AN ACT relating to compensation; revising provisions governing compensation for overtime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an employer is not required to pay compensation for overtime to an employee who works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work. (NRS 608.018) This bill provides that if an employer and employee have mutually agreed upon the employee working a scheduled 10 hours per day for 4 calendar days within any scheduled week of work and the employee does not work the 40 hours scheduled because of certain circumstances, ~~beyond the control of the employer,~~ the employer is authorized to pay the employee only the employee's regular wage rate for the hours the employee actually worked. This bill also provides that if an employee does not work the 40 hours scheduled because of a decision made by the employer, the employer is required to pay the employee overtime compensation for any day during the workweek in which the employee worked more than 8 hours. Finally, this bill provides that if an employer and employee have mutually agreed upon the employee working a scheduled 10 hours per day for 4 calendar days within any scheduled week of work, the employer must pay the employee overtime compensation whenever the employee works more than 10 hours in any workday.

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

Section 1. NRS 608.018 is hereby amended to read as follows:

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee ~~works at~~ *is* scheduled *to work* 10 hours per day for 4 calendar days within any scheduled week of work ~~+~~ *subject to the following provisions:*

(1) If the employee does not work 40 hours in any scheduled week of work pursuant to this paragraph because of a decision made by the employee, a natural disaster, ~~inclement weather,~~ the tardiness of the employee ~~+~~ or an illness of the employee, ~~for any other circumstance beyond the control of the employer,~~ except as otherwise provided in subparagraph (3), the employer may pay the employee the employee's regular wage rate for the hours the employee actually worked.

(2) If the employee does not work 40 hours in any scheduled week of work pursuant to this paragraph because of a decision made by the employer, the employer must pay the employee 1 1/2 times the employee's

regular wage rate for any workday during that week of work in which the employee worked more than 8 hours.

(3) Except as otherwise provided in subparagraph (2), the employer shall pay 1 1/2 times the employee's regular wage rate whenever the employee works more than 10 hours in any workday.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) Employees in a retail or service business if their regular rate is more than 1 1/2 times the minimum wage, and more than half their compensation for a representative period comes from commissions on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than 1 month;

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

(j) Drivers of taxicabs or limousines;

(k) Agricultural employees;

(l) Employees of business enterprises having a gross sales volume of less than \$250,000 per year;

(m) Any salesperson or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or worker for any hours to which the provisions of subsection 3 or 4 of NRS 338.020 apply.

Sec. 2. This act becomes effective on July 1, 2013.

Assemblyman Bobzien moved that the Assembly do not concur in the Senate Amendment No. 653 to Assembly Bill No. 339.

Remarks by Assemblyman Bobzien.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 225.

The following Senate amendment was read:

Amendment No. 785.

AN ACT relating to business brokers; revising the definition of the term “business broker”; limiting the application of the term to the performance of certain acts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, or advertise or assume to act as, a business broker within this State without first obtaining from the Real Estate Division of the Department of Business and Industry a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in business as a business broker. (NRS 645.230) Existing law defines a “business broker” as a person who, while acting as a real estate broker, real estate broker-salesperson or real estate salesperson for another and for compensation or with the intention or expectation of receiving compensation: (1) sells, exchanges, options or purchases a business; (2) negotiates or offers, attempts or agrees to negotiate the sale, exchange, option or purchase of a business; or (3) lists or solicits prospective purchasers of a business. (NRS 645.0075) This bill revises the definition of the term “business broker” to limit its application to the acts described in NRS 645.0075 which are performed as part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property.

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

Section 1. NRS 645.0075 is hereby amended to read as follows:

645.0075 “Business broker” means a person who, while acting ~~as a real estate broker, real estate broker salesperson or real estate salesperson~~ for another and for compensation or with the intention or expectation of receiving compensation ~~; *f*, and as part of a transaction, proposed transaction or prospective transaction involving an interest or estate in real property.~~

1. Sells, exchanges, options, ~~for~~ purchases, rents or leases a business ~~that is sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property;~~
2. Negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, ~~for~~ purchase, rental or lease of a business ~~that is or is intended to be sold, exchanged, optioned, purchased, rented or leased as part of an interest or estate in real property;~~ or

3. Lists or solicits prospective purchasers of a business if a component of the listing or solicitation is an interest or estate in real property.

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 785 to Assembly Bill No. 225.

Remarks by Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. The amendment revises the definition of “business broker” to include someone who rents or leases as a part of transaction, proposed transaction, or prospective transaction involving an interest or estate in real property.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Ohrenschall moved that the Assembly do not recede from its action on Amendment No. 779 to Senate Bill No. 49, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Ohrenschall.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Ohrenschall, Neal, and Oscarson as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 49.

Assemblyman Horne moved that the Assembly recess until 3:30 p.m.

Motion carried.

Assembly in recess at 12:38 p.m.

ASSEMBLY IN SESSION

At 5:18 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 518, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bills Nos. 423, 428, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2013

To the Honorable the Assembly:

It is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 66, Senate Amendment No. 675, and requests a conference, and appointed Senators Kihuen, Kieckhefer and Parks as a Conference Committee to meet with a like committee of the Assembly.

Also, it is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 283, Senate Amendment No. 866, and requests a conference, and appointed Senators Spearman, Parks and Goicoechea as a Conference Committee to meet with a like committee of the Assembly.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bills Nos. 320, 452, 517.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted Senate Concurrent Resolution No. 10.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendment No. 647 to Senate Bill No. 493.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 502; Senate Bills Nos. 515, 518, just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Horne moved that Assembly Bills Nos. 423 and 428, just reported out of committee, be placed at the top of the General File.

Motion carried.

NOTICE OF WAIVER

A Waiver requested by: Assembly Committee on Taxation.

For: A New BDR No. 32-1248:

Revises provisions relating to taxation.

To Waive:

Subsection 2 of Joint Standing Rule No. 14 (Committee requests of each house must be requested by 19th day)

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees)

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day)

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: May 31, 2013.

SENATOR MOISES DENIS
Senate Majority Leader

ASSEMBLYWOMAN MARILYN K. KIRKPATRICK
Speaker of the Assembly

By the Committee on Legislative Operations and Elections:

Assembly Concurrent Resolution No. 9—Providing for the compensation of the clergy and the coordinator of the clergy for services rendered to the Assembly and Senate during the 77th Session of the Nevada Legislature.

WHEREAS, The members of the 77th Session of the Nevada Legislature sincerely appreciate the daily religious services that are rendered by members of the clergy representing various denominations; and

WHEREAS, The invocations offered by the clergy provide inspiration and guidance for the members of the Nevada Legislature as they face the challenges and demands of a legislative session; and

WHEREAS, The assistance provided by the coordinator of the clergy facilitated the daily services; and

WHEREAS, A reasonable compensation should be provided for the clergy who performed such services and for the coordinator of the clergy; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That the State Controller is authorized and directed to pay the sum of \$35 per service out of the Legislative Fund to the members of the clergy who performed religious services for the Assembly and the Senate during the 77th Session of the Nevada Legislature; and be it further

RESOLVED, That the State Controller is authorized and directed to pay the sum of \$2,000 to the coordinator of the clergy who facilitated the services for the Assembly and the Senate during the 77th Session of the Nevada Legislature.

Assemblyman Ohrenschall moved the adoption of the resolution.

Remarks by Assemblyman Ohrenschall.

Resolution adopted.

Senate Concurrent Resolution No. 10.

WHEREAS, On May 15, 2013, the State of Nevada lost one of its most important voices in higher education and, most notably, a champion of students statewide; and

WHEREAS, Dorothy Sewell Gallagher, a fourth-generation Nevadan, was born on September 14, 1925, to J. Harvey and Mollie Sewell in Elko, Nevada, and in 1943 enrolled in the University of Nevada, where she met the love of her life, Thomas H. Gallagher; and

WHEREAS, During her years at the University, she was president of the Gamma Phi Beta sorority, and after graduating with a bachelor's degree in zoology in the spring of 1947, she married Tom on August 30, 1947; and

WHEREAS, After spending 4 years in San Francisco while Tom attended dental school and giving birth to two of their sons, Dorothy and her family returned to Elko in 1951 where Tom began a dentistry practice with his father and brother; and

WHEREAS, In 1953, their youngest son was born, and Dorothy immersed herself in motherhood and the day-to-day operations of the family ranches in Lamoille, Pine Valley and Diamond Valley; and

WHEREAS, After the ranches were sold in 1979, Dorothy was elected to her first of many terms as a member of the Board of Regents of the University of Nevada in 1980; and

WHEREAS, Dorothy Gallagher served with distinction and honor as a Regent for an unprecedented 28 years from 1980 to 2002, and from 2004 to 2010, and her tenure included serving as Chair of the Board of Regents as well as Chair of more than a dozen committees; and

WHEREAS, This esteemed Nevadan steadfastly represented 11 rural counties, as her district spanned the State from the Idaho border to Pahrump; and

WHEREAS, Dorothy Gallagher's wisdom and foresight were instrumental in the creation and development of Great Basin College in Elko and bringing in baccalaureate programs to the rural institution as she helped to plan and develop Nevada's first state college in 2002, which now boasts an enrollment of over 3,000 students with 35 majors and minors; and

WHEREAS, A committed supporter of mining education, she became the first woman honored with the Mining and Metallurgical Society of America's Gold Medal in 2009; and

WHEREAS, The Dorothy S. Gallagher Great Basin Environmental Research Laboratory of the Desert Research Institute bears her name in recognition of her efforts to secure funding to construct the multidisciplinary research facility; and

WHEREAS, Dorothy Gallagher was actively involved in her community, serving as a member of the Board of Directors of the Nevada National Bank, the Elko County Hospital Board of Trustees and the Board of Directors of Vitality House, and for her efforts in health services outreach, she was named the Rural Nevadan Who Dares to Care by the University of Nevada School of Medicine in 1994; and

WHEREAS, Dorothy's countless accolades include being recognized as a University of Nevada Distinguished Nevadan, University of Nevada Honorary Doctorate, University of Nevada Alumnus of the Year, as well as being included in the Junior Achievement of Northern Nevada's Business Leaders Hall of Fame and receiving the Nevada Women's Fund Hall of Fame Award for Education, the Elko General Hospital Legacy Award and the Nevada Hospital Association Trustee Excellence Award; and

WHEREAS, This incomparable inspirational leader and mentor dedicated her life to improving access to quality educational opportunities for all, and through her selfless service, improved the lives of Nevadans for generations to come; and

WHEREAS, Dorothy Gallagher is survived by her husband Thomas, sons Michael, Thomas and Frank, five grandchildren and three great-grandchildren; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 77th Session of the Nevada Legislature hereby recognize the exemplary achievements of this extraordinary woman and extend their deepest condolences to her family, colleagues and friends; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Dorothy Gallagher's beloved husband, Dr. Thomas H. Gallagher.

Assemblyman Ellison moved the adoption of the resolution.

Remarks by Assemblymen Ellison and Grady.

Assemblyman Ellison moved that the following remarks be entered into the Journal.

Motion carried.

ASSEMBLYMAN ELLISON:

It is my honor to offer a few words about the life of former regent Dorothy Gallagher. As the resolution noted, Dorothy served with distinction on the Board of Regents for 28 years. Her district consisted of 11 counties, which is 84 percent of the entire state. Those counties are Churchill, Elko, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Nye, Pershing, and White Pine. That adds up to more than 92,000 square miles. Her district was larger than 37 other states.

Dorothy helped guide the development of Great Basin College, which now has over 3,800 students in attendance. The main campus is in Elko with branches in Battle Mountain, Ely, Pahrump, and Winnemucca. Great Basin also operates satellite centers in 20 additional rural communities. Dorothy's district also included the Fallon branch of Western Nevada College and satellite centers in Hawthorne and Lovelock.

Great Basin and Western Nevada Colleges offer four-year bachelor degrees and two-year associate degrees.

I have had the honor of knowing Dorothy Gallagher and her family most of my life. She and her husband Tom, their sons, and their families are some of the finest citizens Elko County and the state of Nevada has ever seen.

Madam Speaker, if I may, I would like to turn this over to my colleague from District 38 to introduce some of our guests.

ASSEMBLYMAN GRADY:

Thank you, Madam Speaker. I stand in support of Senate Concurrent Resolution 10. I have known the Gallagher and the Sewell families from Elko for many years. In fact, Harvey Sewell, Dorothy's father, was one of the biggest and finest cattle buyers in the state of Nevada. He also was one of the founders of Nevada National Bank, then known as just Nevada National. I had the privilege of working for him at the bank when he was the chairman of the board for many years.

The other night, just a few weeks ago, my colleague from Assembly District 19, the senator from Eureka, and myself were privileged to attend the mining dinner at UNR where the family donated back to the University Dorothy's medal that she received from the mining society and wanted it to go back to the University to be theirs forever in her name. Again, I stand in support of Senate Concurrent Resolution 10.

Resolution adopted.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Taxation:

Assembly Bill No. 508—AN ACT relating to taxation; revising provisions governing the imposition, rate and exemptions from the tax on live entertainment; revising provisions governing investigations by the State Gaming Control Board for violations relating to the tax on live entertainment; requiring certain reports concerning exemptions and exclusions from the tax on live entertainment to be provided to the Legislative Commission; requiring certain taxpayers to include information concerning admissions to a place of amusement, sport, recreation or other entertainment in returns filed with the Department of Taxation for the payroll tax; and providing other matters properly relating thereto.

Assemblywoman Bustamante Adams moved that the bill be referred to the Committee on Taxation.

Motion carried.

By Assemblyman Legislative Operations and Elections:

Assembly Bill No. 509—AN ACT relating to legislative affairs; revising certain provisions to account for the new constitutional power allowing members of the Legislature to convene a special session; revising certain provisions relating to legislative committees, investigations, hearings and subpoenas; revising certain provisions relating to punishment for acts of contempt committed before legislative bodies; providing penalties; and providing other matters properly relating thereto.

Assemblyman Ohrenschall moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 320.

Assemblyman Elliot Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 452.

Assemblywoman Dondero Loop moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 517.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 430.

Bill read second time and ordered to third reading.

Senate Bill No. 481.

Bill read second time and ordered to third reading.

Assembly Bill No. 502.

Bill read second time and ordered to third reading.

Senate Bill No. 515.

Bill read second time and ordered to third reading.

Senate Bill No. 518.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that Assembly Bill No. 215 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 423.

Bill read third time.

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

Amendment No. 930.

AN ACT relating to criminal procedure; establishing certain time limitations regarding the disclosure of the factual content of reports of presentence investigations ; ~~to the objections to such reports and the~~

~~submission of such reports to a court,]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of any: (1) presentence investigation made by the Division and the recommendations of the Division; and (2) general investigation made by the Division. The Division is also required to give each party an opportunity to object to any factual errors in any such report and to comment on any recommendations. (NRS 176.156)

Section 1 of this bill requires the Division to disclose the factual content of the report of any presentence investigation made by the Division and the recommendations of the Division to the prosecuting attorney, the counsel for the defendant, the defendant and the court not later than ~~[21]~~ 7 days before the defendant will be sentenced, unless the defendant waives this minimum period. ~~[Within 7 days after receiving the report, the parties must state in writing any objections to the content of the report. The Division may revise the report and must submit the report and any addendum to the report to the parties and to the court not later than 7 days before the defendant will be sentenced. At the time of sentencing, the court is required to verify that the defendant and his or her counsel have read and discussed the report and any addendum to the report, and may allow a party to make a new objection before the sentence is imposed. Section 1 further provides that if a party fails to object to the accuracy of a report of a presentence investigation before a sentence is imposed, the matter shall be deemed to be waived.] Sections 3.3, 3.7 and 5 of this bill provide that beginning on March 1, 2014, the minimum period designated pursuant to section 1 becomes 14 days before sentencing, and beginning on October 1, 2014, the minimum period becomes 21 days before sentencing.~~

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.]~~ *Except as otherwise provided in this ~~[subsection.]~~ section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than ~~[21]~~ 7 days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this ~~[subsection]~~*

~~2. Within 7 days after receiving the report of a presentence investigation from the Division pursuant to subsection 1, the parties shall state in writing any objection to the content of the report, including, without limitation, any objection to material information contained in the report and any policy statement contained in or omitted from the report. Any party who objects to the content of the report shall provide a copy of the objection to the opposing party and to the Division.~~

~~3. After receiving any objection pursuant to subsection 2, the Division may meet with the parties to discuss the objection. The Division may further investigate and, if appropriate, revise the report.~~

~~4. Not later than 7 days before the defendant will be sentenced, the Division shall submit to the court and to the parties the final report of a presentence investigation and, if applicable, an addendum containing:~~

~~(a) Any unresolved objections and the grounds therefor;~~

~~(b) The Division's comments regarding any such unresolved objections.~~

~~5. At the time of sentencing, the court shall:~~

~~(a) Verify that the defendant and the counsel for the defendant have read and discussed the final report and any addendum to the final report.~~

~~(b) Allow the prosecuting attorney and the counsel for the defendant to comment on the determinations of the Division and other matters relating to an appropriate sentence. The court may, for good cause, allow a party to make a new objection at any time before the sentence is imposed.~~

~~(c) For any disputed portion of the final report or other controverted matter:~~

~~(1) Set forth written findings of fact or conclusions of law regarding the dispute, which the court shall include in the final report or any addendum to the final report; or~~

~~(2) Determine that a ruling is unnecessary because the dispute will not affect the sentencing of the defendant or the court will not consider the matter when sentencing the defendant.~~

~~6. If a party fails to object to the accuracy of a report of a presentence investigation before a sentence is imposed, the matter shall be deemed to be waived.~~

~~7. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.~~

~~8. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation to the Division of Mental Health and Developmental Services of the Department of Health~~

~~and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:~~

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

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

~~9. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation to the State Gaming Control Board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.~~

~~10. Except for the disclosures required by subsections 1, 7, 8 and 9, a report of a presentence investigation and the sources of information for such a report are confidential and must not be made a part of any public record.~~
section.

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.161, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

- (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;
- (h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;
- (i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;
- (j) Lewdness with a child pursuant to NRS 201.230;
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;
- (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or
- (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 3. NRS 176.156 is hereby amended to read as follows:

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

~~(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.~~

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

~~†~~ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations.

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

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

- (a) A sex offender as defined in NRS 213.107; or
- (b) An offender who has been determined to be mentally ill.

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

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

Sec. 3.3. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than ~~17~~ **14** days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this section.

Sec. 3.7. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than ~~14~~ **21** days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this section.

Sec. 4. The amendatory provisions of this act apply to a report of any presentence investigation that is made on or after ~~July~~ **October** 1, 2013.

Sec. 5. 1. This **section and sections 1, 2, 3 and 4 of this act** ~~becomes~~ **become** effective on ~~July~~ **October** 1, 2013.

2. Section 3.3 of this act becomes effective on March 1, 2014.

3. Section 3.7 of this act becomes effective on October 1, 2014.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 428.

Bill read third time.

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

Amendment No. 904.

AN ACT relating to energy; revising provisions relating to the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to

participants in the Solar Program and the Wind Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; ~~revising certain provisions relating to the portfolio standard for renewable energy; providing for aggregate net metering on low income residential property;~~ **requiring each electric utility in this State to create a Lower Income Solar Energy Pilot Program; requiring the Consumer’s Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to publish certain reports; requiring the Commission to open an investigatory docket relating to the costs and benefits attributable to net metering; extending the prospective expiration of the Solar Program, the Wind Program and the Waterpower Program;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 3** of this bill establishes the statewide capacity floor for the Solar Program and the limits on incentives paid for each renewable energy program. ~~Section 3 further authorizes a utility to file with the Public Utilities Commission of Nevada the annual plan required for each of these programs as a single plan.~~ **Sections 5, 19 and 26** of this bill remove the concept of a “program year” with respect to the renewable energy programs.

Sections 5-7 of this bill require the Public Utilities Commission of Nevada to adopt regulations relating to the provision of market-based incentives under the Solar Program. Section 7 ~~of this bill revises provisions governing the incentives for participation in the Solar Program;~~ requires the Commission to review the incentives and authorizes the Commission to adjust the incentives not more frequently than annually. **Section 7** also provides for an incentive to be paid to a **qualified** participant in the Solar Program in one installment upon proof that the participant has installed and energized the solar energy system and for an incentive to be paid to a **qualified** participant over time which must be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 7** also provides for the payment of performance-based incentives to a qualified participant in the Solar Program after December 31, 2021. **Section 9** of this bill requires the Commission to establish the categories for participation in the Solar Program ~~which must, at a minimum, distinguish between residential property, nonresidential property and low income residential property.~~ **Section 9** ~~further requires~~ **authorizes** the Commission to establish the **criteria and**

capacity limitations for each category. **Section 11** of this bill requires a participant in the Solar Program to participate in net metering.

Section 13 of this bill requires the Commission to establish the categories for participation in the Wind Program. **Section 14** of this bill requires the Commission to adopt regulations establishing a system of incentives for participation in the Wind Program. **Section 14** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and be based on the performance and amount of electricity generated by the wind energy system. **Section 14** also provides for the payment of performance-based incentives to a qualified participant in the Wind Program after December 31, 2021. **Section 17** of this bill requires a participant in the Wind Program to participate in net metering.

Section 18 of this bill requires the Commission to adopt regulations to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. ~~It~~, **and section 20 of this bill prescribes certain limitations on such incentives.** **Section 21** of this bill requires a participant in the Waterpower Program to participate in net metering.

Section 21.3 of this bill requires each electric utility in this State to create a Lower Income Solar Energy Pilot Program for the purpose of installing solar distributed generation systems within its service territory for the benefit of low-income customers.

Existing law authorizes certain qualified customers of a utility to participate in net metering. (NRS 704.766-704.775) ~~Sections 23 and~~ **Section 24** of this bill ~~authorize~~ **authorizes a utility to assess** certain ~~persons who reside in a residential housing complex located on low income residential property to participate in aggregate~~ **charges against certain participants in net metering**, ~~through the use of a net metering system which operates on multiple residential units. Section 23 prescribes the requirements for such an aggregate net metering system, and section 24 requires the Commission to adopt regulations setting forth the conditions under and manner in which qualified residents and tenants may participate.~~

~~Existing law provides that a provider of electric service shall be deemed to have generated or acquired 2.4 kilowatt hours of electricity from a renewable energy system for each 1.0 kilowatt hour of actual electricity generated or acquired from a solar photovoltaic system installed on the premises of retail customers. (NRS 704.7822) Section 25 of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.~~

Existing law authorizes the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to represent

the public interest in any proceeding, including a proceeding to review a proposed rate of an electric utility. Section 25.5 of this bill requires the Consumer’s Advocate to publish a report containing certain information if the Consumer’s Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility.

Section 26.5 of this bill requires the Commission to open an investigatory docket to evaluate the costs and benefits attributable to net metering in this State.

Sections 25.6-25.9 of this bill extend the prospective expiration of the Wind Program, the Waterpower Program and the Solar Program from December 31, 2021, to December 31, 2025.

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

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.2 and 3.1~~ **1.5 to 3.5, inclusive**, of this act.

Sec. 1.5. 1. As used in this chapter, unless the context otherwise requires, “installed cost” means the actual, documented cost of tangible materials and labor for the installation of a solar energy system, distributed generation system, wind energy system or waterpower energy system.

2. As used in this section:

(a) “Distributed generation system” has the meaning ascribed to it in NRS 701B.055.

(b) “Solar energy system” has the meaning ascribed to it in NRS 701B.150.

(c) “Waterpower energy system” has the meaning ascribed to it in NRS 701B.800.

(d) “Wind energy system” has the meaning ascribed to it in NRS 701B.560.

Sec. 2. *The Legislature hereby finds and declares that it is the policy of this State to:*

1. Expand and accelerate the development of solar distributed generation systems in this State; and

2. Establish a sustainable and self-sufficient solar renewable energy industry in this State in which solar energy systems are a viable mainstream alternative for homes, businesses and other public entities.

Sec. 3. 1. *For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by subsection 2, the Public Utilities Commission of Nevada shall ~~approve~~ set incentive levels and schedules, with a goal of approving solar energy systems totaling at least ~~76,478~~ 250,000 kilowatts of capacity in*

this State for the period beginning on July 1, ~~2013~~ 2010, and ending on December 31, 2021.

2. The Commission shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and solar distributed generation systems to exceed ~~333,530,000~~ \$255,270,000 for the period beginning on July 1, ~~2013~~ 2010, and ending on December 31, ~~2021~~ 2025.

(b) The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed ~~60,000,000~~ \$40,000,000 for the period beginning on July 1, ~~2013~~ 2009, and ending on December 31, ~~2021~~ 2025. The Commission shall by regulation determine the ~~total amount~~ allocation of incentives for each Program.

3. The Commission may, subject to the limitations prescribed by subsection 2, authorize the payment of performance-based incentives for the period ending on December 31, 2025.

4. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, as applicable.

~~4~~ 5. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 3.5. A person who submits an application to a utility pursuant to this chapter shall not make any false or misleading statement in the application or in any material which is required to be submitted with the application. As used in this section, "utility" means a public utility that supplies electricity or natural gas in this State.

Sec. 4. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~NRS 701B.240~~ regulations adopted by the Commission.

Sec. 5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, and section 2 of this act, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives, ~~except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.~~ ~~and prescribe the period, which may be the period required to fully subscribe each step in capacity or the same period covered by a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.~~ The incentives must be market-based incentives that:

(a) Do not exceed 50 percent of the installed cost of a solar energy system or distributed generation system, as determined by using the average installed cost of the solar energy systems or distributed generation systems, as applicable, installed in the immediately preceding year;

(b) Are designed to maximize the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers; and

(c) Provide for a sustainable Solar Program that maintains sufficient customer participation and that provides for the measured award of incentives to as many participants as possible on or before December 31, 2021.

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; ~~and~~

(f) **Any other information that the Commission requires from the utility as part of the administration of the Solar Program; and**

(g) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems . ~~pursuant to paragraph (b) of subsection 1 of NRS 701B.260.~~

Sec. 6. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

(a) ~~School property;~~

(b) ~~Public and other property; and~~

(c) ~~Private residential property and small business property; and~~ **the Solar Program.**

2. The form and content of the master application.

3. **The ~~period~~ process for accepting and approving applications, which must ~~include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.~~ provide that applications are approved based on the order in which complete applications are submitted and not on a lottery process.**

4. **A requirement that an authorized representative of any public entity participating in the Solar Program, including participation through a third-party ownership structure, provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the solar energy system or distributed generation system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.**

5. **A process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.**

Sec. 7. NRS 701B.220 is hereby amended to read as follows:

701B.220 **1.** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing ~~an incentive~~ **the incentives** for participation in the Solar Program ~~and~~ **shall consider whether such regulations ensure, to the extent practicable, the cost-effective use of such incentives and predictability for participants, rate payers and utilities, and shall maximize to the extent practicable the number of customer**

categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers. The regulations must:

(a) ~~Provide~~ For a solar energy system that has a generating capacity of not more than 25 kilowatts, provide for an incentive that must be paid in one installment to a participant for a solar energy system upon proof that the participant has installed and energized the solar energy system;

(b) ~~Provide~~ For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for an incentive that must be paid to a participant over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) ~~Provide~~ For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) The period in which the participant will receive an incentive from the utility, which must not exceed ~~77~~ 5 years;

(3) That the payments of an incentive to the participant must be made not more frequently than quarterly; and

(4) ~~Except as otherwise provided in subsection 3, that~~ That a utility must not be required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, ~~2021,~~ 2025;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average installed cost of the systems, the cost to the utility of carrying out the Solar Program, ~~and~~ the effect of the Solar Program on the rates paid by customers of the utility ~~and~~ and the annual statistical data related to the amount of incentives granted and the number of participants;

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the ~~cost~~ installed costs of ~~installing~~ solar energy systems ~~decreases~~ decrease and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require ~~it~~;

(f) Provide that the rate at which incentives decline over time will be published by the Commission, including publication on the Internet website maintained by the Commission, annually or on such other schedule as necessary to reflect changes in the market; and

(g) Provide that incentives must be made available only to solar energy systems with a nameplate capacity of not more than 500 kilowatts.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not more frequently than annually ~~for~~, as determined necessary by the Commission to reflect changes in the market for solar energy systems and demand for incentives.

3. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, in accordance with regulations adopted by the Commission.

Sec. 8. NRS 701B.230 is hereby amended to read as follows:

701B.230 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area. ~~for a program year.~~

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 9. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~{Solar Program must have three}~~ **Commission ~~{shall}~~ :**

(a) Shall establish categories ~~{as follows:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property.} for participation in the Solar Program ~~{, which must, at a minimum, distinguish between:~~~~

~~(a) Residential property;~~

~~(b) Nonresidential property; and
(c) Low-income residential property.] with the goal of maximizing to the extent practicable the number of customer categories participating in the Solar Program based on demographics and location.~~

(b) May establish the criteria and capacity for each category.

3. For the purpose of establishing categories pursuant to subsection 2, the Commission ~~shall~~ **may additionally establish** ~~+~~

~~(a) Subcategories, which must include, without limitation, school property, public property and property owned by a nonprofit corporation;~~

~~(b) The criteria for qualifying as a participant under each category and subcategory; and~~

~~(c) The capacity limitations for each category and subcategory.]~~
subcategories which may include, without limitation, schools, public property, low-income customers and nonprofit organizations, and may establish the criteria and capacity for each subcategory.

4. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~Commission~~ **utility** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; **and**

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~;~~ **and**

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.]~~

Sec. 10. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility ~~may~~ **shall** select the applicant for participation in the Solar Program ~~+~~, **subject to the limitations prescribed by section 3 of this act.**

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility ~~may~~ **shall** approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the *installed* cost of the project and a calculation of the expected system output.

5. Upon receipt of the *completed* incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount *and type* of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.~~

Sec. 11. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~##~~ *To be eligible for an incentive through the Solar Program*, a solar energy system ~~used by a participant in the Solar Program meets~~ *must meet* the requirements ~~of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate~~ *for participation* in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 12. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program ~~as set forth in~~ *established by the Commission pursuant to subsection 2 of* NRS 701B.580.

Sec. 13. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~Program must have four~~ *Commission shall establish* categories ~~as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.] for participation in the Program.~~

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; **and**

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~]; and~~

~~(e) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.]~~

Sec. 14. NRS 701B.590 is hereby amended to read as follows:

701B.590 **1.** The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

~~1.] (a) The capacity goals for the Program. ~~]; which must be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.~~~~

~~2.] (b) A system of incentives that are based on rebates that decline as the ~~capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~~~

~~3.] installed cost of installing wind energy systems declines and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require. The system of incentives must provide:~~

~~(1) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;~~

~~(2) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and~~

~~(3) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:~~

~~(I) The amount of the incentive the participant will receive from the utility;~~

~~(II) The period in which the participant will receive an incentive from the utility, which must not exceed ~~7] 5 years;~~~~

~~(III) That the payments of an incentive to the participant must be made not more frequently than quarterly; and~~

(IV) ~~Except as otherwise provided in subsection 2, that~~ That a utility is not required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, ~~2021~~ 2025.

(c) Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average installed cost of the wind energy system, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.

(d) The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

(e) The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

(f) The total incentive paid to a participant in the Program, which must not exceed 50 percent of the total installed cost of the wind energy system of the participant.

(g) A requirement that an authorized representative of any public entity participating in the Program, including participation through a third-party ownership structure, must provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the wind energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.

(h) A process pursuant to which the utility shall transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.

2. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to subparagraph (2) of paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, subject to the limitations prescribed by section 3 of this act and in accordance with regulations adopted by the Commission.

Sec. 15. NRS 701B.610 is hereby amended to read as follows:

701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area. ~~{for the following program year.}~~

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 16. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the *installed* cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~¶An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.¶~~

Sec. 17. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~##~~ *To be eligible for an incentive through the Wind Demonstration Program*, a wind energy system ~~{used by a participant in the Wind Demonstration Program meets}~~ **must meet** the requirements ~~{of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate}~~ **for participation** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 18. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must ~~{be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of waterpower energy systems in this State by 2016 and the goals for each category of the Program. The regulations must}~~ provide that not less than 1 megawatt of capacity ~~{must}~~ be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.

2. *A system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.*

3. A system of incentives that are based on rebates that decline as the capacity goals for the Program ~~{and the goals for each category of the Program}~~ are met. The rebates must be based on predicted energy savings.

~~{3}~~ 4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

~~{5}~~ ~~The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.~~

Sec. 19. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~{On}~~ **Each year on** or before ~~{February 21, 2008, and on or before February 1 of each subsequent year,}~~ **a date established by the Commission**, each utility shall file with the Commission ~~{for approval and}~~ **the utility's annual plan for {the administration and delivery of} carrying out and administering** the Waterpower Demonstration Program **in its service area** for the ~~{program year beginning July 1, 2008, and each subsequent year thereafter.}~~ **immediately following 12-month period prescribed by the Commission.**

2. ~~{On or before July 1, 2008, and on or before each July 1 of each subsequent year, the}~~ **The Commission shall {review} :**

(a) **Review** the annual plan for compliance with the requirements ~~{set forth}~~ **established** by regulation of the Commission ~~{}~~ ; **and**

(b) **Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.**

Sec. 20. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the installed cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that ~~that~~:

(a) An applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~;~~

~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.] ;~~

and

(b) No payment may be made by a utility after December 31, 2025, or made if such payment would otherwise cause the utility to exceed the limitations prescribed by section 3 of this act.

8. The total incentive paid to a participant in the Waterpower Demonstration Program must not exceed 50 percent of the total installed cost of the waterpower energy system of the participant.

9. An authorized representative of any public entity participating in the Waterpower Demonstration Program, including participation through a third-party ownership structure, shall provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the waterpower energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.

10. The Commission shall adopt regulations prescribing a process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission with any redacted personal identifying information of a customer.

Sec. 21. NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~##~~ *To be eligible for an incentive through the Waterpower Demonstration Program, the waterpower energy system ~~used by a participant in the Waterpower Demonstration Program meets~~ must meet the requirements ~~of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate~~ for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.*

Sec. 21.3. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each electric utility in this State shall create a Lower Income Solar Energy Pilot Program for the purpose of installing, before January 1, 2017, distributed generation systems with a cumulative capacity of at least 1 megawatt at locations throughout its service territory which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments and schools with significant populations of low-income pupils. Each electric utility shall submit the Program as part of its annual plan submitted pursuant to NRS 701B.230. The Commission shall approve the Program with such modifications and upon such terms and conditions as the Commission deems necessary or appropriate to enable the Program to meet the purposes set forth in this subsection.

2. The Office of Energy shall advise the Commission and each electric utility regarding grants and other sources of money available to defray the costs of the Program.

3. As used in this section, “distributed generation system” has the meaning ascribed to it in NRS 701B.055.

Sec. 22. ~~NRS 704.021 is hereby amended to read as follows:~~

~~704.021 — “Public utility” or “utility” does not include:~~

~~1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.~~

~~2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:~~

~~(a) They serve 25 persons or less; and~~

~~(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.~~

~~3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.~~

~~4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.~~

~~5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.~~

~~6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.~~

~~7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.~~

~~8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.~~

~~9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.~~

~~10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:~~

~~(a) Located on the premises of another person;~~

~~(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and~~

~~(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located;~~

~~As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.~~

~~**11. Persons whose requirements for electricity are offset in whole or in part by a net metering system described in paragraph (d) of subsection 1 of NRS 704.771. (Deleted by amendment.)**~~

~~Sec. 23. [NRS 704.771 is hereby amended to read as follows:
704.771 1. "Net metering system" means:~~

~~(a) A facility or energy system for the generation of electricity that:~~

~~(1) Uses renewable energy as its primary source of energy to generate electricity;~~

~~(2) Has a generating capacity of not more than 1 megawatt;~~

~~(3) Is located on the customer-generator's premises;~~

~~(4) Operates in parallel with the utility's transmission and distribution facilities; and~~

~~(5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity;~~

~~(b) A facility or energy system for the generation of electricity that:~~

~~(1) Uses waterpower as its primary source of energy to generate electricity;~~

~~(2) Is located on property owned by the customer-generator;~~

~~(3) Has a generating capacity of not more than 1 megawatt;~~

~~(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and~~

~~(5) Is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator; or~~

~~(c) A facility or energy system for the generation of electricity:~~

~~(1) Which uses wind power as its primary source of energy to generate electricity;~~

~~(2) Which is located on property owned or leased by an institution of higher education in this State;~~

~~(3) Which has a generating capacity of not more than 1 megawatt;~~

~~(4) Which operates in parallel with the utility's transmission and distribution facilities;~~

~~(5) Which is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or on contiguous property owned or leased by the customer-generator;~~

~~(6) Which is used for research and workforce training; and~~

~~(7) The construction or installation of which is commenced on or before December 31, 2011, and is completed on or before December 31, 2012.~~

~~(d) A facility or energy system for the generation of electricity that:~~

~~(1) Uses solar power as its primary source of energy to generate electricity;~~

~~(2) Is a single system operating on two or more residential units located within the same residential housing complex on low income residential property;~~

~~(3) Has an aggregate generating capacity of not more than 1 megawatt;~~

~~(4) Operates in parallel with the utility's transmission and distribution facilities; and~~

~~(5) Is intended primarily to offset all or part of the requirements for electricity of two or more residents or tenants of the residential housing complex on a pro-rata basis.~~

~~2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:~~

~~(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or~~

~~(b) One hundred percent of the customer-generator's annual requirements for electricity.~~ **(Deleted by amendment.)**

Sec. 24. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all net metering systems operating in this State is equal to ~~12~~ 3 percent of the total peak capacity of all utilities in this State.

2. ~~If~~ Except as otherwise provided in subsection 6, if the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) ~~Shall~~ Except as otherwise provided in subsection 5, shall not charge a customer-generator any fee or charge that would increase the customer-

generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. ~~If Except as otherwise provided in subsection 6, if~~ the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), ~~¶~~ **and subsection 5,** may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

↪ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

↪ the net metering system ceases to be eligible to participate in net metering.

5. **A utility shall assess against a customer-generator:**

(a) If applicable, the universal energy charge imposed pursuant to NRS 702.160; and

(b) Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the customer-generator.

↪ **For any such charges calculated on the basis of a kilowatt-hour rate, the customer-generator must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.**

6. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

↳ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

~~f 6. The Commission shall adopt regulations prescribing the manner in which two or more residents or tenants of a residential housing complex located on low-income residential property may participate in net metering. The regulations must include, without limitation:~~

~~(a) The qualifications for participation in net metering as a resident or tenant of a residential housing complex located on low-income residential property;~~

~~(b) The manner in which consumption and generation of electricity are measured on a pro-rata basis;~~

~~(c) The manner in which credit is issued to a resident or tenant on a pro-rata basis;~~

~~(d) Any requirements for the allocation to a resident or tenant of any costs relating to the installation by a utility of metering equipment.]~~

Sec. 25. ~~[NRS 704.7822 is hereby amended to read as follows:~~

~~704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:~~

~~1. The system is installed on the premises of a retail customer [;] or provider; and~~

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

(Deleted by amendment.)

Sec. 25.5. NRS 228.390 is hereby amended to read as follows:

228.390 **I.** Except as otherwise provided in NRS 704.110 and 704.7561 to 704.7595, inclusive:

~~111~~ (a) The Consumer's Advocate has sole discretion to represent or refrain from representing the public interest and any class of customers in any proceeding.

~~121~~ (b) In exercising such discretion, the Consumer's Advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his or her participation.

~~131~~ (c) If the Consumer's Advocate determines that there would be a conflict between the public interest and any particular class of customers or any inconsistent interests among the classes of customers involved in a particular matter, the Consumer's Advocate may choose to represent one of the interests, to represent no interest, or to represent one interest through his or her office and another or others through outside counsel engaged on a case basis.

(d) If the Consumer's Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility, the Consumer's Advocate shall publish a report in support of the decision to decline such representation and make the report available to the public at the Bureau of Consumer Protection and on the Internet website maintained by the Bureau of Consumer Protection. The report must:

(1) Identify each element of the public interest, as may be applicable to the proceeding to review a proposed rate; and

(2) Specify the manner in which each element of the public interest, as identified pursuant to subparagraph (1), is sufficiently represented.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 25.6. Section 113 of chapter 509, Statutes of Nevada 2007, as last amended by section 49 of chapter 412, Statutes of Nevada 2011, at page 2562, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 75, inclusive, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive, of this act expire by limitation on December 31, ~~2021~~, **2025**.

Sec. 25.7. Section 13 of chapter 246, Statutes of Nevada 2009, as last amended by section 50 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

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

2. Sections 2 and 3 of this act expire by limitation on December 31, ~~2021~~, **2025**.

Sec. 25.8. Section 21 of chapter 321, Statutes of Nevada 2009, as last amended by section 51 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.85, 1.87, 1.92, 1.93, 1.95 and 4.3 to 9, inclusive, of this act expire by limitation on December 31, ~~2021~~, **2025**.

Sec. 25.9. Section 54 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 54. 1. This section and sections 1, 3 to 42, inclusive, 44, 45, 46, 48 to 51, inclusive, subsection 2 of section 52 and section 53 of this act become effective upon passage and approval.

2. Sections 2, 43, 47 and subsection 1 of section 52 of this act become effective on January 1, ~~2022~~, **2026**.

Sec. 26. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260, 701B.490 and 701B.760 are hereby repealed.

Sec. 26.5. 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to examine the comprehensive costs of and benefits from net metering in this State, including, without limitation, the costs and benefits to:

(a) The State of Nevada;

(b) Customer-generators who participate in net metering;

(c) Customers of a utility who do not participate in net metering; and

(d) Each utility which offers net metering.

2. The investigatory docket shall engage a knowledgeable and independent third party to analyze all factors that the Commission deems necessary to determine the costs and benefits described in subsection 1.

3. The following parties may participate in the investigatory docket:

(a) Each utility in this State;

(b) The Regulatory Operations Staff of the Commission;

(c) The Consumer’s Advocate of the Bureau of Consumer Protection in the Office of the Attorney General;

(d) Any business operating in the State whose primary business is the installation of distributed generation systems; and

(e) Any other interested parties.

4. On or before October 1, 2014, the Commission shall:

(a) Prepare a written report of its findings and recommendations from the investigatory docket, including, without limitation, a calculation and determination of the total costs of and benefits from net metering.

(b) Submit the written report to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

5. If the report of the Commission concludes that there is a material net benefit or cost attributable to net metering, the Commission shall recommend a methodology for properly allocating and apportioning all of the costs and benefits of net metering among all persons who participate in, benefit from and pay for net metering.

6. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Net metering" has the meaning ascribed to it in NRS 704.769.

(c) "Utility" has the meaning ascribed to it in NRS 704.772.

Sec. 27. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before April 30, 2014. The regulations must ~~†~~

~~1. Provide~~ **provide** for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 7 of this act, NRS 701B.590, as amended by section 14 of this act, and NRS 701B.840, as amended by section 18 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

~~† 2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Incentive Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind~~

~~Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2015.~~

Sec. 28. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, ~~2015,~~ **2014**, for all other purposes.

2. Sections 1 to 23, inclusive, of this act expire by limitation on December 31, ~~2021,~~ **2025**.

LEADLINES OF REPEALED SECTIONS

701B.060 "Institution of higher education" defined.

701B.100 "Program year" defined.

701B.110 "Public and other property" defined.

701B.120 "Public entity" defined.

701B.130 "School property" defined.

701B.140 "Small business" defined.

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

701B.490 "Program year" defined.

701B.760 "Program year" defined.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

The following amendment was proposed by Assemblyman Bobzien:

Amendment No. 922.

AN ACT relating to energy; revising provisions relating to the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; revising certain provisions relating to the portfolio standard for renewable energy; providing for aggregate net metering on low-income residential property; **establishing the Legislative Committee on Energy;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 3** of this bill establishes the

statewide capacity floor for the Solar Program and the limits on incentives paid for each renewable energy program. **Section 3** further authorizes a utility to file with the Public Utilities Commission of Nevada the annual plan required for each of these programs as a single plan. **Sections 5, 19 and 26** of this bill remove the concept of a “program year” with respect to the renewable energy programs.

Section 7 of this bill revises provisions governing the incentives for participation in the Solar Program, requires the Commission to review the incentives and authorizes the Commission to adjust the incentives not more frequently than annually. **Section 7** also provides for an incentive to be paid to a participant in the Solar Program in one installment upon proof that the participant has installed and energized the solar energy system and for an incentive to be paid to a participant over time which must be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 7** also provides for the payment of performance-based incentives to a qualified participant in the Solar Program after December 31, 2021. **Section 9** of this bill requires the Commission to establish the categories for participation in the Solar Program which must, at a minimum, distinguish between residential property, nonresidential property and low-income residential property. **Section 9** further requires the Commission to establish the capacity limitations for each category. **Section 11** of this bill requires a participant in the Solar Program to participate in net metering.

Section 13 of this bill requires the Commission to establish the categories for participation in the Wind Program. **Section 14** of this bill requires the Commission to adopt regulations establishing a system of incentives for participation in the Wind Program. **Section 14** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and be based on the performance and amount of electricity generated by the wind energy system. **Section 14** also provides for the payment of performance-based incentives to a qualified participant in the Wind Program after December 31, 2021. **Section 17** of this bill requires a participant in the Wind Program to participate in net metering.

Section 18 of this bill requires the Commission to adopt regulations to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts. **Section 21** of this bill requires a participant in the Waterpower Program to participate in net metering.

Existing law authorizes certain qualified customers of a utility to participate in net metering. (NRS 704.766-704.775) **Sections 23 and 24** of this bill authorize certain persons who reside in a residential housing

complex located on low-income residential property to participate in aggregate net metering through the use of a net metering system which operates on multiple residential units. **Section 23** prescribes the requirements for such an aggregate net metering system, and **section 24** requires the Commission to adopt regulations setting forth the conditions under and manner in which qualified residents and tenants may participate.

Existing law provides that a provider of electric service shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system installed on the premises of retail customers. (NRS 704.7822) **Section 25** of this bill provides the same calculation for solar photovoltaic systems installed on the premises of the provider if certain conditions are met.

Sections 25.1-25.45 and 25.55 of this bill establish the Legislative Committee on Energy and set forth the membership, duties, powers and responsibilities of the Committee.

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

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The Legislature hereby finds and declares that it is the policy of this State to:*

1. Expand and accelerate the development of solar distributed generation systems in this State; and

2. Establish a sustainable and self-sufficient solar renewable energy industry in this State in which solar energy systems are a viable mainstream alternative for homes, businesses and other public entities.

Sec. 3. *1. For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, the Public Utilities Commission of Nevada shall approve solar energy systems totaling at least 76,478 kilowatts of capacity in this State for the period beginning on July 1, 2013, and ending on December 31, 2021.*

2. The Commission shall not authorize the payment of an incentive pursuant to:

(a) The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and solar distributed generation systems to exceed \$333,530,000 for the period beginning on July 1, 2013, and ending on December 31, 2021.

(b) The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration

Program created by NRS 701B.820 if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed \$60,000,000 for the period beginning on July 1, 2013, and ending on December 31, 2021. The Commission shall by regulation determine the total amount of incentives for each Program.

3. *A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, as applicable.*

4. *As used in this section:*

(a) *"Distributed generation system" has the meaning ascribed to it in NRS 701B.055.*

(b) *"Utility" means a public utility that supplies electricity in this State.*

Sec. 4. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~NRS 701B.240~~ *regulations adopted by the Commission.*

Sec. 5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives ~~except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.~~ *and prescribe the period, which may be the period required to fully subscribe each step in capacity or the same period covered by a utility's annual plan for carrying out and administering the Solar Program, for a utility to account for those incentives.*

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems . ~~pursuant to paragraph (b) of subsection 1 of NRS 701B.260.~~

Sec. 6. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

~~(a) School property;~~

~~(b) Public and other property; and~~

~~(c) Private residential property and small business property; and~~ **the Solar Program.**

2. The form and content of the master application.

3. ***The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a solar energy system within the time allowed by NRS 701B.255.***

Sec. 7. NRS 701B.220 is hereby amended to read as follows:

701B.220 ***1.*** In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing ~~an incentive~~ ***the incentives*** for participation in the Solar Program ~~and shall consider whether such regulations ensure, to the extent practicable, the cost-effective use of such incentives and predictability for participants, rate payers and utilities. The regulations must:~~

(a) Provide for an incentive that must be paid in one installment to a participant for a solar energy system upon proof that the participant has installed and energized the solar energy system;

(b) Provide for an incentive that must be paid to a participant over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) Provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) The period in which the participant will receive an incentive from the utility, which must not exceed 7 years;

(3) That the payments of an incentive to the participant must be made not more frequently than quarterly; and

(4) Except as otherwise provided in subsection 3, that a utility must not be required to make an incentive payment after December 31, 2021;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average cost of the systems, the cost to the utility of carrying out the Solar Program and the effect of the Solar Program on the rates paid by customers of the utility; and

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the cost of installing solar energy systems decreases and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not more frequently than annually.

3. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, in accordance with regulations adopted by the Commission.

Sec. 8. NRS 701B.230 is hereby amended to read as follows:

701B.230 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area. ~~for a program year.~~

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out

and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 9. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~{Solar Program must have three}~~ **Commission shall establish** categories ~~{as follows:~~

- ~~(a) School property;~~
- ~~(b) Public and other property; and~~
- ~~(c) Private residential property and small business property.}~~ **for participation in the Solar Program, which must, at a minimum, distinguish between:**

- (a) Residential property;**
- (b) Nonresidential property; and**
- (c) Low-income residential property.**

3. **For the purpose of establishing categories pursuant to subsection 2, the Commission shall additionally establish:**

- (a) Subcategories, which must include, without limitation, school property, public property and property owned by a nonprofit corporation;**
- (b) The criteria for qualifying as a participant under each category and subcategory; and**
- (c) The capacity limitations for each category and subcategory.**

4. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~{Commission}~~ **utility** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; **and**

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~{; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.}~~

Sec. 10. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and

requirements to be eligible to participate in the Solar Program, a utility may select the applicant for participation in the Solar Program.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of the incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.~~

Sec. 11. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~##~~ *To be eligible for an incentive through the Solar Program*, a solar energy system ~~used by a participant in the Solar Program meets~~ *must meet* the requirements ~~of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate~~ *for participation* in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 12. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program ~~as set forth in~~ *established by the Commission pursuant to subsection 2 of* NRS 701B.580.

Sec. 13. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~Program must have four~~ **Commission shall establish** categories ~~as follows:~~

~~(a) School property;~~

~~(b) Other public property;~~

~~(c) Private residential property and small business property; and~~

~~(d) Agricultural property.]~~ **for participation in the Program.**

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; **and**

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~;~~ **and**

~~(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.]~~

Sec. 14. NRS 701B.590 is hereby amended to read as follows:

701B.590 **1.** The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

~~1.] (a) The capacity goals for the Program. ~~;~~ which must be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.~~

~~2.] (b) A system of incentives that are based on rebates that decline as the ~~capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~~~

~~3.] **cost of installing wind energy systems declines and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require. The system of incentives must provide:**~~

~~(1) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;~~

~~(2) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and~~

(3) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(I) The amount of the incentive the participant will receive from the utility;

(II) The period in which the participant will receive an incentive from the utility, which must not exceed 7 years;

(III) That the payments of an incentive to the participant must be made not more frequently than quarterly; and

(IV) Except as otherwise provided in subsection 2, that a utility is not required to make an incentive payment after December 31, 2021.

(c) Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average cost of the wind energy system, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.

(d) The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

(e) The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

2. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to subparagraph (2) of paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, in accordance with regulations adopted by the Commission.

Sec. 15. NRS 701B.610 is hereby amended to read as follows:

701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area. ~~{for the following program year.}~~

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 16. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 17. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~##~~ ***To be eligible for an incentive through the Wind Demonstration Program***, a wind energy system ~~[used by a participant in the Wind Demonstration Program meets]~~ ***must meet*** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ ***for participation*** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 18. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must ~~be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of waterpower energy systems in this State by 2016 and the goals for each category of the Program. The regulations must~~ provide that not less than 1 megawatt of capacity ~~must~~ be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.

2. *A system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.*

3. A system of incentives that are based on rebates that decline as the capacity goals for the Program ~~and the goals for each category of the Program~~ are met. The rebates must be based on predicted energy savings.

~~3-~~ 4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

5. *The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a waterpower energy system within the time allowed by NRS 701B.865.*

Sec. 19. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~On~~ *Each year on* or before ~~February 21, 2008, and on or before February 1 of each subsequent year,~~ *a date established by the Commission,* each utility shall file with the Commission ~~for approval and the utility's annual plan for the administration and delivery of~~ *carrying out and administering* the Waterpower Demonstration Program *in its service area* for the ~~program year beginning July 1, 2008, and each subsequent year thereafter.~~ *immediately following 12-month period prescribed by the Commission.*

2. ~~On or before July 1, 2008, and on or before each July 1 of each subsequent year, the~~ *The Commission shall review* :

(a) *Review* the annual plan for compliance with the requirements ~~set forth~~ *established* by regulation of the Commission ~~;~~ *;* and

(b) *Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.*

Sec. 20. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.~~

Sec. 21. NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~[[~~ **To be eligible for an incentive through the Waterpower Demonstration Program**, the waterpower energy system ~~used by a participant in the Waterpower Demonstration Program meets~~ **must meet** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ **for participation** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 22. NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

- (a) They serve 25 persons or less; and
- (b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

- (a) Located on the premises of another person;
- (b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➔ As used in this subsection, “renewable energy” has the meaning ascribed to it in NRS 704.7811.

11. *Persons whose requirements for electricity are offset in whole or in part by a net metering system described in paragraph (d) of subsection 1 of NRS 704.771.*

Sec. 23. NRS 704.771 is hereby amended to read as follows:

704.771 1. “Net metering system” means:

(a) A facility or energy system for the generation of electricity that:

(1) Uses renewable energy as its primary source of energy to generate electricity;

(2) Has a generating capacity of not more than 1 megawatt;

(3) Is located on the customer-generator’s premises;

(4) Operates in parallel with the utility’s transmission and distribution facilities; and

(5) Is intended primarily to offset part or all of the customer-generator’s requirements for electricity;

(b) A facility or energy system for the generation of electricity that:

(1) Uses waterpower as its primary source of energy to generate electricity;

(2) Is located on property owned by the customer-generator;

(3) Has a generating capacity of not more than 1 megawatt;

(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and

(5) Is intended primarily to offset all or part of the customer-generator’s requirements for electricity on that property or contiguous property owned by the customer-generator; or

(c) A facility or energy system for the generation of electricity:

(1) Which uses wind power as its primary source of energy to generate electricity;

(2) Which is located on property owned or leased by an institution of higher education in this State;

(3) Which has a generating capacity of not more than 1 megawatt;

(4) Which operates in parallel with the utility’s transmission and distribution facilities;

(5) Which is intended primarily to offset all or part of the customer-generator’s requirements for electricity on that property or on contiguous property owned or leased by the customer-generator;

(6) Which is used for research and workforce training; and

(7) The construction or installation of which is commenced on or before December 31, 2011, and is completed on or before December 31, 2012.

(d) A facility or energy system for the generation of electricity that:

(1) Uses solar power as its primary source of energy to generate electricity;

(2) Is a single system operating on two or more residential units located within the same residential housing complex on low-income residential property;

(3) Has an aggregate generating capacity of not more than 1 megawatt;

(4) Operates in parallel with the utility's transmission and distribution facilities; and

(5) Is intended primarily to offset all or part of the requirements for electricity of two or more residents or tenants of the residential housing complex on a pro rata basis.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred percent of the customer-generator's annual requirements for electricity.

Sec. 24. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all net metering systems operating in this State is equal to 2 percent of the total peak capacity of all utilities in this State.

2. ~~¶¶~~ *Except as otherwise provided in subsection 6, if* the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. ~~HH~~ *Except as otherwise provided in subsection 6, if* the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

↪ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

↪ the net metering system ceases to be eligible to participate in net metering.

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

↪ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

6. *The Commission shall adopt regulations prescribing the manner in which two or more residents or tenants of a residential housing complex located on low-income residential property may participate in net metering. The regulations must include, without limitation:*

(a) *The qualifications for participation in net metering as a resident or tenant of a residential housing complex located on low-income residential property.*

(b) *The manner in which consumption and generation of electricity are measured on a pro rata basis.*

(c) *The manner in which credit is issued to a resident or tenant on a pro rata basis.*

(d) *Any requirements for the allocation to a resident or tenant of any costs relating to the installation by a utility of metering equipment.*

Sec. 25. NRS 704.7822 is hereby amended to read as follows:

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 or 704.78213, a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer ~~or~~ *or provider*; and

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

Sec. 25.1. Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 25.2 to 25.45, inclusive, of this act.

Sec. 25.2. As used in sections 25.2 to 25.45, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Energy.

Sec. 25.25. 1. The Legislative Committee on Energy, consisting of eight legislative members, is hereby created. The membership of the Committee consists of:

(a) Four members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.

(b) Four members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

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.

3. The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of

each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

4. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.

5. A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

Sec. 25.3. 1. Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.

2. The Director or 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. 25.4. 1. The Committee may:

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) The effect of any policy, plan, program or legislation on rates or rate payers;

(4) The effect of any policy, plan, program or legislation on economic development in this State;

(5) The effect of any policy, plan, program or legislation on the environment;

(6) Any contracts or requests for proposals relating to the purchase of capacity;

(7) The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

(8) The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

(9) The infrastructure and transmission requirements of any policy, plan, program or legislation; and

(10) Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, “renewable energy” has the meaning ascribed to it in NRS 701.070.

Sec. 25.45. 1. If the Committee conducts investigations or holds hearings pursuant to paragraph (b) of subsection 1 of section 25.4 of this act:

(a) The Secretary of the Committee or, in the Secretary’s absence, a member designated by the Committee may administer oaths.

(b) The Secretary or Chair of the Committee may cause the deposition of witnesses, residing either within or without the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair of the Committee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.

2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena, the Chair of the Committee may report the failure or refusal to the district court by a petition which:

(a) Sets forth that:

(1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;

(2) The witness has been subpoenaed by the Committee pursuant to this section; and

(3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Committee named in the subpoena; and

(b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Committee.

3. Upon such a petition, the court shall:

(a) Enter an order directing the witness:

(1) To appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order; and

(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Committee; and

(b) Serve a certified copy of the order upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness:

(a) Must appear before the Committee at the time and place fixed in the order;

(b) Must testify or produce the required books, papers, accounts, department records or other documents; and

(c) Upon failure to obey the order, must be dealt with as for contempt of court.

Sec. 25.55. Section 25.4 of this act is hereby amended to read as follows:

Sec. 25.4. 1. The Committee may:

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) The progress made by this State in satisfying the goals and objectives of Senate Bill No. 123 of the 77th Session of the Nevada Legislature;

(4) The effect of any policy, plan, program or legislation on rates or rate payers;

~~##(4)~~ (5) The effect of any policy, plan, program or legislation on economic development in this State;

~~##(5)~~ (6) The effect of any policy, plan, program or legislation on the environment;

~~[(6)] (7)~~ Any contracts or requests for proposals relating to the purchase of capacity;

~~[(7)] (8)~~ The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

~~[(8)] (9)~~ The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

~~[(9)] (10)~~ The infrastructure and transmission requirements of any policy, plan, program or legislation; and

~~[(10)] (11)~~ Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, “renewable energy” has the meaning ascribed to it in NRS 701.070.

Sec. 26. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260, 701B.490 and 701B.760 are hereby repealed.

Sec. 27. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before April 30, 2014. The regulations must:

1. Provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 7 of this act, NRS 701B.590, as amended by section 14 of this act, and NRS 701B.840, as amended by section 18 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

2. Require that the capacity allocated for a participant in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Incentive Program who fails to install and energize the energy system within 12 months after the date on which the applicant is selected for participation in the respective program must be made available to applicants who apply for participation in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program or the Waterpower Energy Systems Demonstration Program on or after January 1, 2015.

Sec. 28. 1. This ~~act becomes~~ **section and sections 1 to 25, inclusive, 26 and 27 of this act become** effective:

(a) Upon passage and approval for the purpose of adopting regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2015, for all other purposes.

2. Sections 25.1 to 25.45, inclusive, of this act become effective on July 1, 2013.

3. Section 25.55 of this act becomes effective at 12:01 a.m. of July 1, 2013, if, and only if, Senate Bill No. 123 of this session is enacted by the Legislature and becomes effective.

4. Sections 1 to 23, inclusive, of this act expire by limitation on December 31, 2021.

LEADLINES OF REPEALED SECTIONS

701B.060 "Institution of higher education" defined.

701B.100 "Program year" defined.

701B.110 "Public and other property" defined.

701B.120 "Public entity" defined.

701B.130 "School property" defined.

701B.140 "Small business" defined.

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

701B.490 "Program year" defined.

701B.760 "Program year" defined.

Assemblyman Bobzien moved the adoption of the amendment.

Remarks by Assemblyman Bobzien.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 388.

Bill read third time.

Remarks by Assemblyman Bobzien.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. Assembly Bill 388 provides that certain facilities that generate electricity from geothermal energy are eligible for a partial abatement of taxes. The measure excludes from the calculation of portfolio energy credits the energy used by a portfolio energy system for its basic operations for any system placed into operation after December 1, 2015, under certain circumstances. The bill also enacts certain provisions related to claims or causes of action relating to a renewable energy project located on Indian tribal land.

Roll call on Assembly Bill No. 388:

YEAS—36.

NAYS—Duncan, Ellison, Hansen, Livermore, Wheeler—5.

EXCUSED—Pierce.

Assembly Bill No. 388 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 413.

Bill read third time.

Remarks by Assemblywomen Carlton and Benitez-Thompson.

ASSEMBLYWOMAN CARLTON:

We went through a long description of Assembly Bill 413 yesterday. This is known as our fuel tax bill. It is enabling legislation for the county to make some of the decisions on their fuel Taxation. They so desperately come to us every session and ask that they get to have more say in what they do in their county. In this particular bill, we are giving them that option. I would be happy to defer to the Assistant Minority Leader for any questions that the body has.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Thank you, Madam Speaker. Regarding Assembly Bill 413, indexing has worked very well for Washoe County running critical infrastructure for the community and creating construction jobs. I am sure Clark County will benefit in the way that Washoe County has. I look forward to it. But there are parts of this bill that I understand adversely impact Washoe County. I understand those are going to be addressed on the other side, so I will be supporting Assembly Bill 413 with that in mind.

Roll call on Assembly Bill No. 413:

YEAS—34.

NAYS—Duncan, Ellison, Fiore, Hambrick, Livermore, Oscarson, Wheeler—7.

EXCUSED—Pierce.

Assembly Bill No. 413 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 425.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Thank you, Madam Speaker. Assembly Bill 425, as amended, makes various changes to the Nevada Insurance Code for the purposes of implementing certain provisions of federal law. Additionally, A.B. 425, as amended, establishes a regulatory structure for exchange enrollment facilitators who will be certified by the Commissioner of Insurance and appointed as navigators or assistants by the Silver State Health Insurance Exchange.

The provisions of the bill related to the regulation of exchange enrollment facilitators are effective upon passage and approval. The provisions of the bill revising statutes to conform with federal law are effective upon passage and approval for the purpose of adopting regulations and on January 1, 2014, for all other purposes.

Roll call on Assembly Bill No. 425:

YEAS—40.

NAYS—Fiore.

EXCUSED—Pierce.

Assembly Bill No. 425 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 488.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Thank you, Madam Speaker. Assembly Bill 488, as amended, implements the transfer of several activities within the Department of Health and Human Services. The Health Division would be renamed as the Division of Public and Behavioral Health, and mental health services would be transferred from the Division of Mental Health and Developmental Services to the renamed division to create a holistic health care approach which integrates services for both the body and mind. To create a continuum of care to serve individuals with disabilities across the lifespan within one state agency, developmental services from the Division of Mental Health and Developmental Services and Early Intervention Services from the existing Health Division would transfer to the Aging and Disability Services Division. As a result of these transfers, the Division of Mental Health and Developmental Services would be eliminated.

In addition, this bill renames the Commission on Mental Health and Developmental Services as the Commission on Behavioral Health and replaces the State Health Officer with a Chief Medical Officer. This bill implements recommendations included in the Executive Budget for the 2013-15 biennium. Assembly Bill 488, as amended, becomes effective on July 1, 2013.

Roll call on Assembly Bill No. 488:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 488 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 423, just returned from the printer, be placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 423.

Bill read third time.

The following amendment was proposed by Assemblywoman Carlton:

Amendment No. 936.

AN ACT relating to criminal procedure; establishing certain time limitations regarding the disclosure of the factual content of reports of presentence investigations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of any: (1) presentence investigation made by the Division and the recommendations of the Division; and (2) general investigation made by the Division. The Division is also required to give each party an opportunity to object to any factual errors in any such report and to comment on any recommendations. (NRS 176.156)

Section 1 of this bill requires the Division to disclose the factual content of the report of any presentence investigation made by the Division and the recommendations of the Division to the prosecuting attorney, the counsel for the defendant, the defendant and the court not later than 7 **working** days before the defendant will be sentenced, unless the defendant waives this minimum period. **Sections 3.3, 3.7 and 5** of this bill provide that beginning on March 1, 2014, the minimum period designated pursuant to **section 1** becomes 14 **working** days before sentencing, and beginning on October 1, 2014, the minimum period becomes 21 **working** days before sentencing.

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

*Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than 7 **working** days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this section.*

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.161, inclusive, **and section 1 of this act**, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

- (a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;
- (b) A psychologist licensed to practice in this State;
- (c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;
- (d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 3. NRS 176.156 is hereby amended to read as follows:

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

(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division ~~††~~, in the period provided in section 1 of this act.

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

⇒ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations.

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general

investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.

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

- (a) A sex offender as defined in NRS 213.107; or
- (b) An offender who has been determined to be mentally ill.

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

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

Sec. 3.3. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than ~~{7}~~ **14** working days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this section.

Sec. 3.7. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in this section, the Division shall disclose to the prosecuting attorney, the counsel for the defendant, the defendant and the court, not later than ~~{4}~~ **21** working days before the defendant will be sentenced, the factual content of the report of any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division. The defendant may waive the minimum period required by this section.

Sec. 4. The amendatory provisions of this act apply to a report of any presentence investigation that is made on or after October 1, 2013.

Sec. 5. 1. This section and sections 1, 2, 3 and 4 of this act become effective on October 1, 2013.

2. Section 3.3 of this act becomes effective on March 1, 2014.

3. Section 3.7 of this act becomes effective on October 1, 2014.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bills Nos. 44, 164, 464, 465, 467, 490; Senate Joint Resolution No. 8, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Daly, Benitez-Thompson, and Hansen as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 283.

Madam Speaker appointed Assemblymen Bustamante Adams, Neal, and Kirner as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 66.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Frierson moved that the Assembly do not recede from its action on Amendment No. 871 to Senate Bill No. 179, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Frierson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Horne, Spiegel, and Fiore as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 179.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Frierson moved that the Assembly do not recede from its action on Amendment No. 777 to Senate Bill No. 280, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Frierson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Frierson, Carlton, and Duncan as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 280.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 8, 10, 20, 35, 44, 48, 54, 64, 83, 86, 87, 97, 99, 116, 126, 147, 156, 170, 172, 189, 200, 209, 227, 233, 284, 300, 303, 306, 345, 346, 348, 364, 365, 374, 442, 448, 449, 455, 456, 459, 460, 471, 478, 483, 494; Assembly Joint Resolution No. 3; Senate Bills Nos. 27, 55, 58, 94, 99, 107, 131, 177, 208, 220, 224, 229, 230, 235, 237, 269, 278, 301, 303, 314, 319, 383, 384, 399, 405, 414, 423, 427, 443, 446, 447, 463, 466, 469, 478, 498; Senate Joint Resolution No. 14 of the 76th Session.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Aizley, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Thorne; the following students from Hummel Elementary School: Paul Bunch, Brett Rowland, Colby Rowland, Matthew Eager, Bell Morales, Lannah Lee, Carroll Madeline, Seth Ruggiero, Sierra Abanilla, Steven Green, Noah Lee, Diego Ruiz, Kyle Barbosa, Wesley Gonzalez, Landon Boccadoro, Jordan Rae, Taryn Harris, Ryan Kelly, Joshua Rawlins, Benjemin Caudell, Aaron Lopez, Cindy Sanchez, Cole Frey, Isiah Revis, Alston McDonald, Agustino Morgan, Vincent Weisman, Isabella Mateo, Tristan Garcia, Gina Purkett, Phoebe McCormick, Cole Steffanich, Steven Gutterman, Isaiah Cottrell, Ethan Leeds, and Fredrica Archibold; and the following students from Elise L. Wolff Elementary School: Ian Adison, Benjamin Boyle, Caleb Brimhall, Morgan Czyzyk, Danielle Damiani, Whitney Donley, Damien Floatos, Noah Gilliland, Benjamin Hassett, Katelyn Hunter, Noy Jerassi Etzion, James Kim, Holden Kimura, Emily Lantz, Katrina Miranda, Sheri Mazingo, Laurie Hunter, Benjamin Brimhall, Joseph Damiani, Timothy Boyle, Jenna Berg, Alexis Carman, Julia Castro, Austin Cates, Pristine Chan, Sailor Chapman, Ashley Coulter, Ben Crandall, Darren Danlag, Kameron Franklin, Bennett Griffin, Connor Hadley, Izabella Ho, Oriana Jennings, Corinna Moosman, Robert Morton, Erika Nelson, Kaitlyn Polhemus, Karsyn Sadler, Sydney Slayton, Kennedy Thomsen, Paul Berg, Michael Carman, Aireen Alvarez Danlag, Deborah Polhemus, Hoa Dao, Mariebelle Tabalba-Coulter, Aiden Benoualid, Evan Benson, Parker Dahling, Fiona Dimailig, Adam DiMaio, Brady Galbraith, Jayla Haltom, Alexandra Hassett, Nao Ihara, Yuuma Ishii, Andrew Marshall, Jenessa Phillips, Aidan Quigley, Mikayla Quintin, Sahar Shora, Darren DiMaio, Katrina Hassett, Christie Benoualid, Sarah Marshall,

Kristina Quigley, Baker Lake, Robert Burgess, Joseph DiSorbo, Lara Fisch, Liam Fitzpatrick, Caitlin Glatt, Haley Kurz, Jacob Murdy, Paris Peterson, Madison Pierce, Mia Richardson, Mate'a Sahagun, Devin Salinas, Regan Shane, Daniel Spangler, Kael Tejada, Silva Bikarian, Myrna Obregon, Karie O'Horo, Aaron Asare, Lisa Bacco, Joshua Banks, Bryce Becker, Ashton Boyer, Katelynn Cariveau, Nicolas DiGiacomo, Lynsey Fjelsted, Dominick Floratos, Eliana Goroc, Elle Harris, Jacquez Johnson, Colleen Keene, Patricia Kuljis, Talmage Leishman, Charles Martin, Alaina Medina, Carson Murphy, Emma Noriega, Brooke Ritchie, Trent Schwartz, William Siffermann Brown, Aubrey Sundling, Tamra Baldauf, Sherry Harris, Sabrina Noriega, Craig Fjelsted, Jerry Ritchie, Stacy Sundling, Joseph Baldauf, Steve Vott, Jaden White, Morgan Whittle, Janiffer Whittle, Shabnam Vott, Ron Kurz, Jennifer Glatt, Christine Gamble, Deborah Harbin, Ryan Mozingo, Jacob Olsen-Campos, and Anthony Simmons.

On request of Assemblyman Ellison, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Gallagher Jr., Frank Gallagher, Sally Gallagher, Bonnie Gallagher, Jason Geddes, and Daniel J. Klaich.

On request of Assemblyman Grady, the privilege of the floor of the Assembly Chamber for this day was extended to Scott G. Wasserman.

On request of Assemblyman Martin, the privilege of the floor of the Assembly Chamber for this day was extended to John Wall.

Assemblyman Horne moved that the Assembly adjourn until Saturday, June 1, 2013, at 12 noon.

Motion carried.

Assembly adjourned at 6:04 p.m

Approved:

MARILYN K. KIRKPATRICK
Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly