

**THE SEVENTY-NINTH DAY**

---

CARSON CITY (Tuesday), April 26, 2005

Senate called to order at 11:01 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Alan Dorway.

Almighty God,

Draw our hearts to You, guide our minds, fill our imaginations, control our wills that we may be wholly Yours and dedicated to Your call. Bless all in the Senate today that as they do their work, they would find peace and joy in their service. Use us as You will, always to the glory and the welfare of Your people through our Lord and Savior Jesus Christ.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

## REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 262, 411, 464, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

## MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 25, 2005

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 393.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 44, 59, 65, 83, 120, 156, 201, 231, 271, 320, 337, 340, 353, 365, 392, 397, 418, 473, 495, 518, 546, 550; Assembly Joint Resolutions Nos. 5, 8.

DIANE KEETCH

*Assistant Chief Clerk of the Assembly*

## MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Judiciary:

Senate Concurrent Resolution No. 21—Urging Washoe County and the City of Reno to study the feasibility of colocating or unifying Reno Justice Court and Reno Municipal Court.

Senator Amodei moved that the resolution be referred to the Committee on Judiciary.

Motion carried.

By Senators Schneider, Beers, Heck, Coffin, Titus, Amodei, Carlton, Hardy, Horsford, Lee, Nolan, Rhoads, Wiener; Assemblymen Parks,

Manendo, Allen, Conklin, Perkins, Anderson, Arberry Jr., Atkinson, Buckley, Christensen, Claborn, Denis, Gerhardt, Giunchigliani, Goicoechea, Grady, Hettrick, Hogan, Holcomb, Horne, Kirkpatrick, Leslie, Mabey, McCleary, Mortenson, Munford, Ocegüera, Ohrenschall, Seale, Sherer and Sibley:

Senate Concurrent Resolution No. 22—Directing the Legislative Commission to conduct an interim study concerning the regulation of the price of gasoline.

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

Motion carried.

Assembly Joint Resolution No. 5.

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

Motion carried.

Assembly Joint Resolution No. 8.

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

Motion carried.

Senator Raggio moved that for this legislative day, that all necessary rules be suspended, and that all Senate bills and joint resolutions returned from reprint be declared emergency measures under the Constitution and immediately placed on third reading and final passage on the next agenda.

Remarks by Senator Raggio.

Motion carried.

Senator Amodei moved that Senate Bill No. 470 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Amodei.

Motion carried.

Senator Hardy moved that Senate Bill No. 378 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Hardy.

Motion carried.

Senator Washington moved that Senate Bill No. 286 be placed on the bottom of the General File.

Remarks by Senator Washington.

Motion carried.

Senator Townsend moved that the action whereby Senate Bill No. 123 was lost be rescinded and placed on the bottom of the General File.

Remarks by Senator Townsend.

Motion carried.

Senator Raggio moved that Assembly Bills Nos. 6, 79, 82, 88, 92, 126, 178, 205, 227, 243, 295, 445 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 44.

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

Motion carried.

Assembly Bill No. 59.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 65.

Senator Nolan moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 83.

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

Motion carried.

Assembly Bill No. 120.

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

Motion carried.

Assembly Bill No. 156.

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

Motion carried.

Assembly Bill No. 201.

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

Motion carried.

Assembly Bill No. 231.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Human Resources and Education.

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 271.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 320.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 337.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 340.

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

Motion carried.

Assembly Bill No. 353.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 365.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 392.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 393.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 397.

Senator Nolan moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Finance.

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 418.

Senator Nolan moved that the bill be referred to the Committee on Taxation.

Motion carried.

Assembly Bill No. 473.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 495.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 518.

Senator Nolan moved that the bill be referred to the Committee on Human Resources and Education.

Motion carried.

Assembly Bill No. 546.

Senator Nolan moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 550.

Senator Nolan moved that the bill be referred to the Committee on Judiciary.

Motion carried.

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

Motion carried.

Senate in recess at 11:14 a.m.

#### SENATE IN SESSION

At 11:17 a.m.

President Hunt presiding.

Quorum present.

#### SECOND READING AND AMENDMENT

Senate Bill No. 153.

Bill read second time.

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

Amendment No. 637.

Amend the bill as a whole by deleting section 1, renumbering sec. 2 as sec. 4 and adding new sections designated sections 1 through 3, following the enacting clause, to read as follows:

"Section 1. NRS 116.31145 is hereby amended to read as follows:

116.31145 ~~{An}~~ *If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~{may}~~:*

1. *Shall, in the books and records of the association, account for the fine separately from any assessment, fee or other charge; and*

2. *Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge ~~{that is paid by a}~~ toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner ~~{toward a fine imposed by}~~ provides written authorization which directs the association ~~{against}~~ to apply the payment made by the unit's owner ~~{}~~ in such a manner.*

Sec. 2. NRS 116.31185 is hereby amended to read as follows:

116.31185 1. A member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

~~{1}~~ (a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

~~{2}~~ (b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. *In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:*

(a) *The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or*

(b) *Any percentage or proportion of those fines.*

3. *The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:*

(a) *The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers adopted by the Commission pursuant to NRS 116.700;*

(b) *The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and*

(c) *The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 2.*

Sec. 3. NRS 649.020 is hereby amended to read as follows:

649.020 1. "Collection agency" means ~~{and includes}~~ all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any

manner the payment of a claim owed or due or asserted to be owed or due to another.

2. "Collection agency" does not include any of the following unless they are conducting collection agencies:

(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.

(b) Banks.

(c) Nonprofit cooperative associations.

(d) *Unit-owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.*

(e) Abstract companies doing an escrow business.

~~(e)~~ (f) Duly licensed real estate agents ~~[-~~

~~(f)~~, *except for those real estate agents who are community managers included within the term "collection agency" pursuant to subsection 3.*

(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.

3. "Collection agency":

(a) *Includes a community manager while engaged in the management of a common-interest community if the community manager, or any employee, agent or affiliate of the community manager, performs, offers to perform or assists another person in performing any act associated with the foreclosure of a lien pursuant to NRS 116.31162 to 116.31168, inclusive; and*

(b) *Does not include any other community manager while engaged in the management of a common-interest community.*

4. *As used in this section:*

(a) *"Community manager" has the meaning ascribed to it in NRS 116.023.*

(b) *"Unit-owners' association" has the meaning ascribed to it in NRS 116.011."*

Amend the title of the bill to read as follows:

"AN ACT relating to common-interest communities; revising provisions relating to the payment of fines by units' owners in common-interest communities; prohibiting community managers from being paid compensation, fees or other remuneration in certain ways; revising the definition of "collection agency" to include community managers under certain circumstances and to exclude unit-owners' associations and other persons under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Revises provisions relating to management of common-interest communities. (BDR 10-830)".

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Senator Townsend disclosed that his wife is a property manager.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 184.

Bill read second time.

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

Amendment No. 420.

Amend sec. 2, page 2, by deleting lines 7 through 13 and inserting:

"2. *The governing body of the local government or its designee shall appoint at least five members to the committee which:*

(a) *Must include:*"

Amend sec. 2, page 2, line 14, by deleting "(c)" and inserting "(1)".

Amend sec. 2, page 2, line 15, by deleting "(d)" and inserting "(2)".

Amend sec. 2, page 2, by deleting lines 17 and 18 and inserting:

"(3) *A representative of the construction industry; and*

(b) *May include:*

(1) *A public officer or employee of the local government who manages the fiscal affairs of the local government; and*

(2) *A public officer or employee of the local government who oversees directly the operation of the enterprise fund."*

Amend sec. 2, page 2, by deleting lines 20 and 21 and inserting: "*term of at least 2 years but not to exceed 4 years. The governing body or its designee may*".

Amend sec. 2, page 2, line 26, by deleting "*concerning:*" and inserting: "*concerning, without limitation:*".

Amend sec. 2, page 2, by deleting lines 27 through 30.

Amend sec. 2, page 2, line 31, by deleting "(b)" and inserting "(a)".

Amend sec. 2, page 3, line 1, by deleting "(c)" and inserting "(b)".

Amend sec. 2, page 3, line 4, by deleting "(d)" and inserting "(c)".

Amend the bill as a whole by deleting sec. 3 and renumbering sections 4 through 9 as sections 3 through 8.

Amend sec. 4, page 4, lines 43 and 44, by deleting: "*sections 2 and 3*" and inserting "*section 2*".

Amend sec. 5, page 5, lines 3 and 19, by deleting: "*sections 2 and 3*" and inserting "*section 2*".

Amend sec. 6, page 5, by deleting line 23 and inserting "3, the".

Amend sec. 6, page 5, lines 24 and 25, by deleting: "*sections 2 and 3*" and inserting "*section 2*".



Amend sec. 6, page 5, line 26, by deleting: "sections 2 and 3" and inserting "section 2".

Amend sec. 6, page 5, line 45, by deleting: "sections 2 and 3" and inserting "section 2".

Amend sec. 6, page 6, line 3, by deleting: "sections 2 and 3" and inserting "section 2".

Amend sec. 6, page 6, lines 7 and 8, by deleting: "sections 2 and 3" and inserting "section 2".

Amend sec. 7, page 6, line 15, by deleting: "sections 2 and 3" and inserting "section 2".

Amend sec. 8, pages 6 and 7, by deleting lines 38 through 45 on page 6 and lines 1 through 13 on page 7, and inserting:

"(e) "Current asset" means any cash maintained in an enterprise fund and any interest or other income earned on the money in the enterprise fund that, at the end of the current fiscal year, is anticipated by a local government to be consumed or converted into cash during the next ensuing fiscal year.

(f) "Current liability" means any debt incurred by a local government to provide the services associated with issuing building permits that, at the end of the current fiscal year, is determined by the local government to require payment within the next ensuing fiscal year.

(g) "Encroachment permit" means the official document issued by the building officer of a local government which authorizes construction activity within a public right-of-way.

(h) "Operating cost" means the amount paid by a local government for supplies, services, salaries, wages and employee benefits to provide the services associated with issuing building permits.

(i) "Working capital" means the excess of current assets over current liabilities, as determined by the local government at the end of the current fiscal year."

Amend sec. 8, page 7, line 43, after "(b)" by inserting: *"The purpose of the enterprise fund is to recover the costs of operating the activity for which the fund was created, including overhead;*

(c)".

Amend sec. 8, page 8, by deleting line 1 and inserting:

~~"[(e) Except as otherwise provided in subsection 5, the]~~

(d) The local".

Amend sec. 8, page 8, by deleting lines 4 through 8 and inserting: ~~"months]~~ 50 percent of the annual operating costs and capital expenditures for the program for the issuance of barricade permits, encroachment permits and building permits of the local government ~~[; and~~

~~(d)]~~, as determined by the annual audit of the local government conducted pursuant to NRS 354.624; and

(e) The local government does not use any of the money in the".

Amend sec. 8, page 8, line 17, by deleting "~~{5.—In~~" and inserting "5.  
~~{In~~".

Amend sec. 8, pages 8 and 9, by deleting lines 33 through 45 on page 8 and lines 1 through 3 on page 9, and inserting: "~~which must be used to pay for unanticipated capital replacement.~~

~~6.}~~ Any amount in an enterprise fund created pursuant to this section that is designated for special use, including, without limitation, prepaid fees and any other amount subject to a contractual agreement, must be identified as a restricted asset and must not be included as a current asset in the calculation of working capital.

~~{7.}~~ 6. If a balance in excess of the amount authorized pursuant to ~~{subsections 4 and 5}~~ paragraph (d) of subsection 4 is maintained in an enterprise fund created pursuant to this section at the close of 2 consecutive fiscal years, the local government shall reduce the fees for barricade permits, encroachment permits and building permits it charges by an amount that is sufficient to ensure that the balance in the enterprise fund at the close of the fiscal year next following those 2 consecutive fiscal years does not exceed the amount authorized pursuant to ~~{subsections 4 and 5}~~ paragraph (d) of subsection 4."

Amend the bill as a whole by deleting sec. 10 and renumbering sec. 11 as sec. 9.

Amend sec. 11, page 10, line 21, by deleting: "*sections 2 and 3*" and inserting "*section 2*".

Amend the bill as a whole by deleting sec. 12 and renumbering sec. 13 as sec. 10.

Amend the title of the bill, fourth and fifth lines, by deleting: "revising the provisions governing the use of enterprise funds;"

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 267.

Bill read second time.

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

Amendment No. 639.

Amend the bill as a whole by deleting sections 1 through 11 and adding new sections designated sections 1 through 6, following the enacting clause, to read as follows:

"Section 1. Chapter 241 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Any statement which is made by a member of a public body during the course of a public meeting is absolutely privileged and does not impose*

*liability for defamation or constitute a ground for recovery in any civil action.*

*2. A witness who is testifying before a public body is absolutely privileged to publish defamatory matter as part of a public meeting, except that it is unlawful to misrepresent any fact knowingly when testifying before a public body.*

Sec. 2. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate physically handicapped persons desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

- (a) The time, place and location of the meeting.
- (b) A list of the locations where the notice has been posted.
- (c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

*(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.*

*(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.*

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) ~~Any~~ *Subject to the provisions of subsection 6, any* other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement ~~[-]~~ *which relates to proprietary information;*

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law ~~[-]~~, *unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.*

➡ *As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.*

6. *A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:*

(a) *If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or*

(b) *If the supporting material is provided to the members of the public body at the meeting, provided to the requester at the same time the material is provided to the members of the public body.*

➡ If the requester has agreed to receive the information and material set forth in ~~this~~ subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

~~6.~~ 7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes

such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

~~{7.}~~ 8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.

Sec. 3. NRS 241.030 is hereby amended to read as follows:

241.030 1. Except as otherwise provided in *this section and NRS 241.031 and 241.033*, ~~[nothing contained in this chapter prevents]~~ a public body ~~[from holding]~~ *may hold* a closed meeting to consider the character, alleged misconduct ~~[,]~~ or professional competence ~~[, or physical or mental health]~~ of a person.

2. *A person whose character, alleged misconduct or professional competence will be considered by a public body during a meeting may waive the closure of the meeting and request that the meeting or relevant portion thereof be open to the public. A request described in this subsection:*

- (a) *May be made at any time before or during the meeting; and*
- (b) *Must be honored by the public body unless the consideration of the character, alleged misconduct or professional competence of the requester involves the appearance before the public body of another person who does not desire that the meeting or relevant portion thereof be open to the public.*

3. A public body may close a meeting upon a motion which specifies ~~[the]~~ :

- (a) *The nature of the business to be considered ~~[,]~~*  
~~3.]; and~~
- (b) *The statutory authority pursuant to which the public body is authorized to close the meeting.*

4. This chapter does not:

- (a) Apply to judicial proceedings.
- (b) Prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.
- (c) Prevent the exclusion of witnesses from a public or private meeting during the examination of another witness.
- (d) Require that any meeting be closed to the public.
- (e) Permit a closed meeting for the discussion of the appointment of any person to public office or as a member of a public body.

~~{4.}~~ 5. The exception provided by this section, and electronic communication, must not be used to circumvent the spirit or letter of this

chapter ~~in order to discuss or~~ to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers.

Sec. 4. NRS 241.031 is hereby amended to read as follows:

241.031 ~~{A}~~

1. *Except as otherwise provided in subsection 2, a public body shall not hold a closed meeting to consider the character, alleged misconduct ~~{,}~~ or professional competence ~~{, or physical or mental health of an}~~ of:*

- (a) *An elected member of a public body ~~{,}~~; or*
- (b) *A person who is an appointed public officer.*

2. *The prohibition set forth in subsection 1 does not apply if the consideration of the character, alleged misconduct or professional competence of the person does not pertain to his role as an elected member of a public body or an appointed public officer, as applicable.*

Sec. 5. NRS 241.033 is hereby amended to read as follows:

241.033 1. A public body shall not hold a meeting to consider the character, alleged misconduct ~~{,}~~ or professional competence ~~{, or physical or mental health}~~ of any person unless it has ~~{given}~~ :

(a) *Given written notice to that person of the time and place of the meeting ~~{, Except as otherwise provided in subsection 2, the}~~; and*

(b) *Received proof of service of the notice.*

2. *The written notice required pursuant to subsection 1:*

(a) *Except as otherwise provided in subsection 3, must be:*

~~{(a)}~~ (1) *Delivered personally to that person at least 5 working days before the meeting; or*

~~{(b)}~~ (2) *Sent by certified mail to the last known address of that person at least 21 working days before the meeting.*

~~{A public body must receive proof of service of the notice required by this subsection before such a meeting may be held.}~~

~~2.}~~ (b) *May include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct or professional competence of the person.*

3. *The Nevada Athletic Commission is exempt from the requirements of ~~{paragraphs (a) and (b)}~~ subparagraphs (1) and (2) of paragraph (a) of subsection ~~{1,}~~ 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.*

~~{3.}~~ 4. *If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct or professional competence of a person, each person to whom notice is required to be given pursuant to paragraph (a) of subsection 1 must be allowed to attend the closed meeting or that portion of the closed meeting during which his character, alleged misconduct or professional competence is considered.*

*With regard to the attendance of persons other than the members of the public body and the person whose character, alleged misconduct or professional competence is considered, the chairman of the public body may:*

*(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or*

*(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.*

5. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person whose character, alleged misconduct ~~[,]~~ or professional competence ~~[, or physical or mental health]~~ was considered at the meeting.

6. *For the purposes of this section, casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct or professional competence of the person.*

Sec. 6. NRS 241.034 is hereby amended to read as follows:

241.034 1. *Except as otherwise provided in subsection 3:*

*(a) A public body shall not consider at a meeting whether to:*

~~[(a)]~~ (1) Take administrative action against a person; or

~~[(b)]~~ (2) Acquire real property owned by a person by the exercise of the power of eminent domain,

↪ unless the public body has given written notice to that person of the time and place of the meeting.

~~[(2)]~~ (b) The written notice required pursuant to ~~[(subsection 1)]~~ paragraph (a) must be:

~~[(a)]~~ (1) Delivered personally to that person at least 5 working days before the meeting; or

~~[(b)]~~ (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

↪ A public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider a matter set forth in ~~[(subsection 1)]~~ paragraph (a) relating to that person at a meeting.

~~[(3)]~~ 2. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.

3. *The written notice otherwise required pursuant to this section is not required if:*

*(a) The public body provided written notice to the person pursuant to NRS 241.033 before holding a meeting to consider his character, alleged misconduct or professional competence; and*

*(b) The written notice provided pursuant to NRS 241.033 included the informational statement described in paragraph (b) of subsection 2 of that section.*

4. For the purposes of this section, real property shall be deemed to be owned only by the natural person or entity listed in the records of the county in which the real property is located to whom or which tax bills concerning the real property are sent."

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy, Carlton, Coffin and Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 473.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 499.

Amend the bill as a whole by deleting section 1 and adding new sections designated sections 1 through 9, following the enacting clause, to read as follows:

"Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Automated enforcement system" means a contrivance, device, mechanism or any combination thereof that is used to obtain evidence of a moving traffic violation without the need for contemporaneous manipulation or operation by a human being. The term includes a red-light camera.*

Sec. 4. *"Red-light camera" means a camera that:*

1. *Is adapted for use or placed at an intersection or crosswalk in which the movement of vehicles or pedestrians, or both, is controlled by an official traffic-control device that is operated electrically, electronically or mechanically; and*

2. *Is capable of photographing or otherwise capturing one or more images or representations of all the following in a simultaneous or approximately simultaneous manner:*

(a) *The license plate number of a vehicle;*

(b) *An accurate likeness of the driver or operator of the vehicle;*

(c) *The signal displayed by or upon the official traffic-control device as the vehicle enters or exits, or both, the intersection or crosswalk controlled by the official traffic-control device;*

(d) *The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic-control device; and*

(e) *The date and time of day.*

Sec. 5. *The Department of Transportation shall adopt regulations establishing a pilot program pursuant to which a county, city or other local*



*government may acquire and use an automated enforcement system to gather evidence to be used for the issuance of a traffic citation for:*

- 1. A violation of this chapter; or*
- 2. A violation of an ordinance, rule or regulation of the county, city or local government which has the force of law.*

*Sec. 6. The regulations adopted by the Department of Transportation pursuant to section 5 of this act must set forth, without limitation:*

*1. That a citation issued through the use of an automated enforcement system imposes the same penalties as a citation issued by a peace officer for the same or substantially similar violation;*

*2. That a citation may not be issued through the use of an automated enforcement system unless the evidence gathered by the system with respect to a particular alleged violation provides reasonable proof that the person driving or operating the vehicle at the time of the alleged violation was the registered owner of the vehicle;*

*3. That a citation issued through the use of an automated enforcement system must:*

*(a) Insofar as practicable, comply with the applicable provisions of NRS 484.799; and*

*(b) Afford the person cited an opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; and*

*4. Criteria detailing the information that must be included in the report that a county, city or local government is required to provide to the Department of Transportation pursuant to subsection 2 of section 7 of this act.*

*Sec. 7. The Department of Transportation shall:*

*1. Establish a clearinghouse of information relating to the use of automated enforcement systems;*

*2. Require a county, city or local government that acquires and uses an automated enforcement system to report to the Department of Transportation, on or before October 1, 2006, and on or before October 1 of each even-numbered year thereafter, the information required to be reported by regulation of the Department of Transportation adopted pursuant to subsection 4 of section 6 of this act; and*

*3. Submit a comprehensive report on the use of automated enforcement systems to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature on or before April 1 of each odd-numbered year.*

*Sec. 8. NRS 484.910 is hereby amended to read as follows:*

*484.910 ~~[A]~~ Except as otherwise provided in sections 2 to 7, inclusive, of this act, a governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the*

equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.

Sec. 9. The provisions of this act become effective upon passage and approval and expire by limitation on June 10, 2007."

Amend the title of the bill to read as follows:

"AN ACT relating to traffic laws; requiring the Department of Transportation to establish by regulation a pilot program pursuant to which a county, city or other local government may acquire and use an automated enforcement system to gather evidence to be used for citations for moving traffic violations; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Requires Department of Transportation to establish pilot program allowing local governments to use certain automated systems for enforcement of traffic laws. (BDR 43-1370)".

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei, Titus, Care and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 484 be placed on the Second Reading File on the next agenda.

Remarks by Senator Raggio.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 21.

Bill read third time.

Roll call on Senate Bill No. 21:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 21 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 31.

Bill read third time.

Roll call on Senate Bill No. 31:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 31 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 62.

Bill read third time.

Roll call on Senate Bill No. 62:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 62 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 64.

Bill read third time.

Roll call on Senate Bill No. 64:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 64 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 67.

Bill read third time.

Roll call on Senate Bill No. 67:

YEAS—14.

NAYS—Care, Carlton, Horsford, Titus, Wiener—5.

NOT VOTING—Raggio.

EXCUSED—McGinness.

Senate Bill No. 67 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 81.

Bill read third time.

Roll call on Senate Bill No. 81:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 98.

Bill read third time.

Roll call on Senate Bill No. 98:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 98 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 109.

Bill read third time.

Remarks by Senators Mathews and Amodei.

Roll call on Senate Bill No. 109:

YEAS—19.

NAYS—Mathews.

EXCUSED—McGinness.

Senate Bill No. 109 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 115.

Bill read third time.

Remarks by Senators Raggio, Care and Nolan.

Senator Raggio requested that the following remarks be entered in the Journal.

SENATOR RAGGIO:

I rise to speak as a proponent of the "Committee on Opposition to Terrorism" which I think is a worthy goal and one which we ought to support.

I was attracted to this "organization" and thought I should be the spokesman for purposes of an amendment to the bill before us.

The bill allows for closed meetings involving terrorism and terrorism activities. It sets up a procedure because otherwise an open meeting would be held. A closed meeting is allowed under certain circumstances if a local government has at least two-thirds of the membership determine under the bill that public disclosure will likely compromise, jeopardize or threaten the safety of the public. It sets a high standard and a high vote in order to close a meeting. There is availability because minutes are confidential but are subject to subpoena and discovery. They can be obtained by order of a court.

I feel that this procedure should apply as well to terrorist organizations. If they are going to have closed meetings, they should go through a similar procedure. The purpose of this amendment is to draw attention to the fact that we set a high standard for ourselves, for our governments, including federal, state and local governments, as to when we can close a meeting even if it is for the purpose of obtaining information on people who want to have weapons of mass destruction and destroy all of us. We need to observe that. Freedom of speech is important, and the openness of meetings is good. But, I suggest our enemies should have to go through the same procedure. I think this amendment should be placed in the bill so that a terrorist organization would have to follow that procedure, also.

We can draw a parallel. It seems that in all the wars we have been involved in we observed the rules of the Geneva Convention. We always treat prisoners humanly. We are currently having trials where military personnel are being tried and imprisoned for acts that were inappropriate with prisoners. Yet, the terrorists seem to get by with cutting off people's heads in front of cameras, and no one seems to care much about their actions.

I want to draw attention to the fact that we have put ourselves under all these restraints. When we are engaged in war, which we are now, we should reflect on what we do. Everyone is criticizing the Patriot Act. Even the American Civil Liberties Union admits there are many good requirements in the Act. I think this deserves attention, and forgive my intrusion into the seriousness of what we are doing at this time, but there should be some limits to restricting the

closing of meetings when our lives are at stake. We lost thousands of people in New York on 9-11. It seems that many of our own people and our world neighbors have forgotten about 9-11. For a few weeks, we focused on what occurred and wanted to get even. We wanted to show the world that they could not do what they did to the United States.

I do not want to go over-board, but I am watching these things, and we seem to want to handcuff ourselves all the time. We do it under the guise of protecting our rights. I support that, but I think we should draw attention to this. Let us rekindle some of our commitment to wage war against those who want to destroy us and our liberties. Having said this, I will withdraw the amendment and request that it be placed in the Journal.

The following amendment was proposed by Senator Raggio.

Amendment No. 9999

Proposed by: Committee on Opposition to Terrorism

Amend the bill as a whole by renumbering sec. 2 as sec. 3 and adding a new section designated sec. 2, following section 1, to read as follows:

"Sec. 2. NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

(a) A decision made by a majority of the members present during a meeting of a public body;  
(b) A commitment or promise made by a majority of the members present during a meeting of a public body;

(c) If a public body may have a member who is not an elected official, an affirmative vote taken by a majority of the members present during a meeting of the public body; or

(d) If all the members of a public body must be elected officials, an affirmative vote taken by a majority of all the members of the public body.

2. "Meeting":

(a) Except as otherwise provided in paragraph (b), means:

(1) The gathering of members of a public body at which a quorum is present to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) Any series of gatherings of members of a public body at which:

(I) Less than a quorum is present at any individual gathering;

(II) The members of the public body attending one or more of the gatherings collectively constitute a quorum; and

(III) The series of gatherings was held with the specific intent to avoid the provisions of this chapter.

(b) Does not include a gathering or series of gatherings of members of a public body, as described in paragraph (a), at which a quorum is actually or collectively present:

(1) Which occurs at a social function if the members do not deliberate toward a decision or take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.

(2) To receive information from the attorney employed or retained by the public body regarding potential or existing litigation involving a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the matter, or both.

3. Except as otherwise provided in this subsection, "public body" means ~~any~~:

(a) *A terrorist organization engaged in terrorist activity in this State, regardless of whether the organization is known to exist; or*

(b) *Any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405.*

➤ "Public body" does not include the Legislature of the State of Nevada.

4. "Quorum" means a simple majority of the constituent membership of a public body or another proportion established by law."

I withdraw Amendment No. 9999 to Senate Bill No. 115.

SENATOR CARE:

I would agree, and I would think that every member of this body would agree with at least 98 percent of what the Majority Leader eloquently put forth. I appreciate the purpose of the amendment, but I want to offer another perspective.

This bill was offered by the City of Las Vegas. In looking at the preamble of the open meeting law, "The Legislature finds and declares that all public bodies exist to aid in the conduct of the peoples' business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly."

We have people who handle homeland security, police departments and the Nevada Commission on Homeland Security. I do not know that it is necessarily proper that a part-time governing body needs to be discussing these matters in closed meetings. We do not close our discussions here or in committee whenever we talk about security because that has been entrusted to the people who deal with matters relating to security.

I do not see any accountability in here. It is not difficult to imagine members of a city council, for example, who might say, "Well we need to talk about the airport because that could be a target of a terrorist attack, let us close the meeting." In the closed meeting, they start talking about secret land swaps. Or, a city councilman says, "You know the monorail is an ideal target for the terrorist," and then start talking about how the rider ship of the monorail is not what they want it to be. Who in the world would ever know?

There is no discussion in this bill about how the determination is made. It simply says, "If they determine they need to go into a closed meeting." Is the discussion about the need to go into the closed meeting going to be held in the open? If there is a motion, will that be held in the open? Who is ever going to know?

I would point out that we have a Nevada Revised Statute (NRS) 239C.200 which is the Nevada Commission on Homeland Security where we put a provision in that says the Governor has to issue an annual report and lists all the items that the Nevada Commission on Homeland Security talked about. It does not say what they said, but at least the public has a way of knowing what was discussed. This would give them the right to discuss anything, and we are expected to trust them?

We have three former Clark County Commissioners under federal indictment. Trust us? We had a North Las Vegas City Councilman who was indicted and convicted for insurance fraud. Trust us? We have newspaper reporters who uncover conflicts that were never disclosed voluntarily. Trust us?

I believe the greatest assurance of security in this Country is to throw open the doors, raise the shutters, turn on all the lights and let the people who put them in office watch every single move that our elected representatives make.

SENATOR NOLAN:

We have a number of bills coming up dealing with Homeland Security issues today. I appreciate the Majority Leader's lighthearted attempt to try to refocus us on some of these issues. He did a good job trying to bring us back to where we should be. Our police and fire departments, the Federal Bureau of Investigation and our intelligence bureaus and agencies are dealing with these issues every day trying to keep our citizens safe.

If you recall back to September 11, 2001, you were probably watching television when the news broke, or someone called you and told you to turn on the television, and you spent the rest of the day watching the events unfold. With these acts that day, there came a realization that there are people out there who want to do us harm. People who deplore our lifestyle might be preoccupied in the Middle East right now because our men and women in uniform are over there keeping them preoccupied, but there will be a time when their loathing for our way of life will not go away. They will be back. It is not a matter of "if," it is a matter of "when." All 15 of those terrorists who flew planes into our Nation's Capital, who took down the World Trade Center buildings and put the plane into the field in Pennsylvania were here in Nevada in Las Vegas, the largest metropolitan area in our State. They sat, planned, plotted and videotaped our casinos and

activities on the Strip. All except one were killed so we will never know what their intentions were to take out, what in the Islamic radical world is, the greatest affront to their religion, a city like Las Vegas. They feel it is the epitome of decadence. At some point, they will be back.

These bills have been balanced to try to take the personal liberties and securities we have and balance them with the need that we have to protect the public. We should look at them in that text, but we need to recall what we are up against. It is our job to do this.

This bill allows, only under specific circumstances, for a public body to discuss things which they cannot discuss in public if they deal with security and public safety issues. Domestic terrorism like that which took down the Murrah Federal Building is committed by unbalanced Americans, and we do not want them sitting through a public meeting listening to the details of protections we are taking for our people. This is about receiving detailed security briefings relating to threats, discussing procedures for responding to threats of terrorism and acts of terrorism, discussing efficiencies in security with respect to public services, public facilities and public infrastructure.

How do you discuss that in public if it is an issue you do not want people who do harm to hear. There is accountability put into this bill. These same records and audio recordings of the meetings can be made available to the Attorney General's Office and with the help of the American Civil Liberties Union and the Nevada Press Association, we crafted this language that would give them the ability to go into closed session if they needed to discuss critical infrastructure, safety issues. A complaint can be filed with the Attorney General's Office, and the Attorney General can look at the issue. If the Attorney General finds fault in the decision to hold a closed meeting, then, charges can be filed.

Please consider supporting this bill.

Roll call on Senate Bill No. 115:

YEAS—13.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Titus, Wiener—7.

EXCUSED—McGinness.

Senate Bill No. 115 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 124.

Bill read third time.

Remarks by Senator Heck.

Conflict of interest declared by Senator Heck

Roll call on Senate Bill No. 124:

YEAS—10.

NAYS—Care, Carlton, Coffin, Horsford, Lee, Mathews, Schneider, Titus, Wiener—9.

NOT VOTING—Heck.

EXCUSED—McGinness.

Senate Bill No. 124 having failed to receive a constitutional majority,  
Madam President declared it lost.

Senate Bill No. 125.

Bill read third time.

Roll call on Senate Bill No. 125:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 125 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 130.

Bill read third time.

Roll call on Senate Bill No. 130:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 130 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 172.

Bill read third time.

Roll call on Senate Bill No. 172:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 172 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 193.

Bill read third time.

Roll call on Senate Bill No. 193:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 193 having received a two-thirds majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 212.

Bill read third time.

Roll call on Senate Bill No. 212:

YEAS—19.

NAYS—Carlton.

EXCUSED—McGinness.

Senate Bill No. 212 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 219.

Bill read third time.

Remarks by Senators Titus and Heck.



Roll call on Senate Bill No. 219:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 219 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 224.

Bill read third time.

Roll call on Senate Bill No. 224:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 224 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 229.

Bill read third time.

Roll call on Senate Bill No. 229:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 229 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 233.

Bill read third time.

Roll call on Senate Bill No. 233:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 233 having received a two-thirds majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 243.

Bill read third time.

Remarks by Senators Titus and Nolan.

Roll call on Senate Bill No. 243:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 243 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 245.

Bill read third time.

Roll call on Senate Bill No. 245:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 245 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 252.

Bill read third time.

Roll call on Senate Bill No. 252:

YEAS—19.

NAYS—Coffin.

EXCUSED—McGinness.

Senate Bill No. 252 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 263.

Bill read third time.

Roll call on Senate Bill No. 263:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 263 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 276.

Bill read third time.

Roll call on Senate Bill No. 276:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 276 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 296.

Bill read third time.

Roll call on Senate Bill No. 296:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 296 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 308.

Bill read third time.

Remarks by Senators Nolan and Horsford.

Roll call on Senate Bill No. 308:

YEAS—7.

NAYS—Beers, Care, Carlton, Cegavske, Coffin, Heck, Horsford, Lee, Mathews, Schneider,  
Tiffany, Titus, Wiener—13.

EXCUSED—McGinness.

Senate Bill No. 308 having failed to receive a two-thirds majority,  
Madam President declared it lost.

Senate Bill No. 323.

Bill read third time.

Roll call on Senate Bill No. 323:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 323 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 329.

Bill read third time.

Roll call on Senate Bill No. 329:

YEAS—18.

NAYS—Carlton, Coffin—2.

EXCUSED—McGinness.

Senate Bill No. 329 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 337.

Bill read third time.

Remarks by Senators Wiener, Amodei and Carlton.

Roll call on Senate Bill No. 337:

YEAS—19.

NAYS—Coffin.

EXCUSED—McGinness.

Senate Bill No. 337 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 338.

Bill read third time.

Roll call on Senate Bill No. 338:

YEAS—20.

NAYS—None.

EXCUSED—McGinness.

Senate Bill No. 338 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 12:35 p.m.

#### SENATE IN SESSION

At 12:41 p.m.

President Hunt presiding.

Quorum present.

Senate Bill No. 343.

Bill read third time.

Roll call on Senate Bill No. 343:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 343 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 344.

Bill read third time.

Roll call on Senate Bill No. 344:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 344 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 365.

Bill read third time.

Roll call on Senate Bill No. 365:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 365 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 384.

Bill read third time.

Roll call on Senate Bill No. 384:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 384 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 386.

Bill read third time.

Remarks by Senators Horsford and Cegavske.

Senator Raggio moved that Senate Bill No. 386 be taken from the General File and placed on the General File on the next agenda.

Remarks by Senator Raggio.

Motion carried.

Senate Bill No. 389.

Bill read third time.

Roll call on Senate Bill No. 389:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 389 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 390.

Bill read third time.

Remarks by Senator Care.

Senator Care requested that his remarks be entered in the Journal.

Thank you, Madam President. I have spoken with a county recorder and a person from a district attorney's office who both agree that in section 1, subsection 3, the way it is worded now, arguably, an opinion issued by the Nevada State Attorney General could be interpreted as law and binding on county recorders. I am pointing this out for the record because it will be fixed in the Assembly so we can get it through.

Senator Raggio moved that Senate Bill No. 390 be rereferred to the Committee on Finance.

Remarks by Senator Raggio.

Motion carried.

Senate Bill No. 397.

Bill read third time.

Roll call on Senate Bill No. 397:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 402.

Bill read third time.

Roll call on Senate Bill No. 402:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 402 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 420.

Bill read third time.

Remarks by Senators Carlton and Heck.

Roll call on Senate Bill No. 420:

YEAS—17.

NAYS—Coffin, Mathews—2.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 420 having received a constitutional majority,  
Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 430 be taken from the General  
File and placed on the General File on the second agenda.

Remarks by Senator Raggio.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 431.

Bill read third time.

Roll call on Senate Bill No. 431:

YEAS—18.

NAYS—None.

NOT VOTING—Coffin.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 431 having received a two-thirds majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 452.

Bill read third time.

Roll call on Senate Bill No. 452:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 452 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 453.

Bill read third time.

The following amendment was proposed by Senators Amodei and Care:

Amendment No. 638.

Amend sec. 41, page 41, by deleting lines 41 through 45 and inserting:

"6. As used in this section, "record" means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(b) Filed or offered for filing by a person pursuant to any provision of title 7 of NRS or article 9 of the Uniform Commercial Code.".

Senator Care moved the adoption of the amendment.

Remarks by Senators Care and Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 462 be taken from the General File and placed on the General File on the second agenda.

Remarks by Senator Raggio.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 475.

Bill read third time.

Roll call on Senate Bill No. 475:

YEAS—12.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Titus, Wiener—7.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 475 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 477.

Bill read third time.

Roll call on Senate Bill No. 477:

YEAS—19.

NAYS—None.

EXCUSED—McGinness, Washington—2.

Senate Bill No. 477 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bills Nos. 123, 286, 481, 488 be taken from the General File and placed on the General File on the second agenda.

Remarks by Senator Raggio.

Motion carried.

#### REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Judiciary, to which was referred Assembly Bill No. 91, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which was referred Senate Bill No. 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

*Madam President:*

Your Committee on Taxation, to which was referred Senate Bill No. 457, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SANDRA J. TIFFANY, *Vice Chair*

#### SECOND READING AND AMENDMENT

Senate Bill No. 262.

Bill read second time.

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

Amendment No. 504.

Amend section 1, page 1, by deleting line 2 and inserting: "thereto a new section to read as follows:

1. *If any improvement project is caused to be constructed for purposes of noise abatement by the governing body of a city or county within the right-of-way of a controlled access freeway, which obstructs the visibility from the main traveled way of the controlled access freeway of an outdoor advertising structure that is located along the controlled access freeway, the governing body of the city or county shall:*

*(a) Authorize, with the consent of the Department of Transportation and at no cost to the State or any local government, the owner of the outdoor advertising structure to adjust the height or angle of the structure to a height or angle that restores the visibility of the structure to the same or comparable visibility as before the construction of the improvement project;*

*(b) Authorize, with the consent of the Department of Transportation and at no cost to the State or any local government, the owner of the outdoor*



*advertising structure to relocate the structure to another location on the same parcel of land or on another parcel of land where the owner of the structure has secured the right to construct a structure and the relocation restores the visibility of the structure to the same or comparable visibility as before the construction of the improvement project;*

*(c) Evaluate the impact of the improvement project on the visibility of the outdoor advertising structure and may, in its discretion, implement design modifications to the project which maintain the integrity of the project and which eliminate the effect of the project on the visibility of the structure so that adjustments to or relocation of the structure are not required to maintain its visibility;*

*(d) Authorize, with the consent of the Department of Transportation and at no cost to the State or any local government, any other relief which is consistent with the public health, safety and welfare and which is mutually agreed upon by the governing body of the city or county, the Department of Transportation and the owner of the outdoor advertising structure; or*

*(e) If the actions described in paragraphs (a) to (d), inclusive, would not result in the same or comparable visibility of the structure, let the visibility of the structure remain obstructed.*

*2. The provisions of subsection 1 do not authorize the owner of an outdoor advertising structure to increase the size of the area of display of the structure.*

*3. A city or county may implement the provisions of this section by ordinance or by variance or waiver from applicable ordinance, rule or regulation.*

*4. The provisions of this section:*

*(a) Apply to lawfully erected conforming and nonconforming outdoor advertising structures;*

*(b) Are not intended to grant an express or implied right of light, air or view over a controlled access freeway if such a right is not otherwise provided by law;*

*(c) Do not apply to an outdoor advertising structure whose visibility was obstructed on or before the effective date of this act by an improvement project for noise abatement;*

*(d) Do not change the designation of an existing nonconforming outdoor advertising structure from nonconforming to conforming; and*

*(e) Do not authorize an increase in the number of nonconforming outdoor advertising structures.*

*5. As used in this section:*

*(a) "Controlled access freeway" means every highway to or from which owners or occupants of abutting lands and other persons are prohibited from having direct private access, and where access is allowed only at interchanges; and*

*(b) "Outdoor advertising structure" means a billboard, subject to a permit issued by the Department of Transportation, that is designed, intended or*

*used to disseminate commercial and noncommercial messages that do not concern the premises upon which the billboard is located."*

Amend the bill as a whole by deleting sections 2 through 4 and renumbering sec. 5 as sec. 2.

Amend sec. 5, page 2, by deleting lines 28 through 30 and inserting: "*section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings*".

Amend the bill as a whole by deleting sections 6 and 7 and adding a new section designated sec. 3, following sec. 5, to read as follows:

"Sec. 3. Chapter 410 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If any improvement project is caused to be constructed for purposes of noise abatement by the Department within the right-of-way of a controlled access freeway, which obstructs the visibility from the main traveled way of the controlled access freeway of an outdoor advertising structure that is located along the controlled access freeway, the Department shall:*

*(a) Authorize, with the consent of the affected city or county and at no cost to the State or any local government, the owner of the outdoor advertising structure to adjust the height or angle of the structure to a height or angle that restores the visibility of the structure to the same or comparable visibility as before the construction of the improvement project;*

*(b) Authorize, with the consent of the affected city or county and at no cost to the State or any local government, the owner of the outdoor advertising structure to relocate the structure to another location on the same parcel of land or on another parcel of land where the owner of the structure has secured the right to construct a structure and the relocation restores the visibility of the structure to the same or comparable visibility as before the construction of the improvement project;*

*(c) Evaluate the impact of the improvement project on the visibility of the outdoor advertising structure and may, in its discretion, implement design modifications to the project which maintain the integrity of the project and which eliminate the effect of the project on the visibility of the structure so that adjustments to or relocation of the structure are not required to maintain its visibility;*

*(d) Authorize, with the consent of the affected city or county and at no cost to the State or any local government, any other relief which is consistent with the public health, safety and welfare and which is mutually agreed upon by the governing body of the affected city or county, the Department and the owner of the outdoor advertising structure; or*

*(e) If the actions described in paragraphs (a) to (d), inclusive, would not result in the same or comparable visibility of the structure, let the visibility of the structure remain obstructed.*

2. *The provisions of subsection 1 do not authorize the owner of an outdoor advertising structure to increase the size of the area of display of the structure.*

3. *The provisions of this section:*

(a) *Apply to lawfully erected conforming and nonconforming outdoor advertising structures;*

(b) *Are not intended to grant an express or implied right of light, air or view over a controlled access freeway if such a right is not otherwise provided by law;*

(c) *Do not apply to an outdoor advertising structure whose visibility was obstructed on or before the effective date of this act by an improvement project for noise abatement;*

(d) *Do not change the designation of an existing nonconforming outdoor advertising structure from nonconforming to conforming; and*

(e) *Do not authorize an increase in the number of nonconforming outdoor advertising structures.*

4. *As used in this section:*

(a) *"Controlled access freeway" means every highway to or from which owners or occupants of abutting lands and other persons are prohibited from having direct private access, and where access is allowed only at interchanges; and*

(b) *"Outdoor advertising structure" means a billboard, subject to a permit issued by the Department, that is designed, intended or used to disseminate commercial and noncommercial messages that do not concern the premises upon which the billboard is located."*

Amend the bill as a whole by renumbering sections 8 and 9 as sections 4 and 5.

Amend sec. 8, page 5, line 41, by deleting "7" and inserting "3".

Amend the title of the bill to read as follows:

"AN ACT relating to outdoor advertising structures; authorizing remedies under certain circumstances if the visibility of an outdoor advertising structure is obstructed as a result of certain highway construction projects; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Authorizes remedies under certain circumstances if outdoor advertising structures are obstructed by certain highway construction. (BDR 22-1250)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 411.

Bill read second time.

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

Amendment No. 416.

Amend the bill as a whole by renumbering section 1 as sec. 9 and adding new sections designated sections 1 through 8, following the enacting clause, to read as follows:

"Section 1. Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *If the assessable property within an improvement district includes tracts of land owned by the municipality, the levy of assessments against the tracts of land owned by the municipality must not exceed 15 percent of the total amount of assessments against all tracts of land within the improvement district.*

Sec. 3. *Except as otherwise provided in NRS 271.595, any payment related to an assessment on property that a person, this State or any political subdivision of this State sends to a municipality by mail that is received by the municipality without a postmark or with an illegible postmark shall be deemed to have been made on a date which is 2 business days before the date on which the municipality received the payment.*

Sec. 4. NRS 271.040 is hereby amended to read as follows:

271.040 "Assessable property" means the tracts of land specially benefited by any project the cost of which is wholly or partly defrayed by the municipality by the levy of assessments, except:

1. Any tract owned by the Federal Government, in the absence of its consent to the assessment. ~~[, or the municipality.]~~

2. *Any tract owned by the municipality, unless the governing body of the municipality adopts a resolution finding that the tract is specially benefited by the project.*

3. Any street or other public right-of-way.

Sec. 5. NRS 271.130 is hereby amended to read as follows:

271.130 "Improvement district" means the geographical area within the municipality designated and delineated by the governing body, in which ~~[improvement district is located the facilities or project, or an interest therein, the cost of which is to be defrayed wholly or in part by the levy of special assessments, and]~~ is located each tract to be assessed ~~[therefor.]~~ *for a project.* An improvement district may consist of noncontiguous areas. Improvement districts shall be designated by consecutive numbers or in some other manner to identify separately each such district in the municipality.

Sec. 6. NRS 271.170 is hereby amended to read as follows:

271.170 "Posting" means posting, ~~[in three public places at or near the site of the project designated]~~ at least 20 days prior to the designated hearing or other time or event ~~[ ]~~:

(a) *On the website of the municipality, if any; or*

(b) *In three public places located on public property at or near the site of the project.*

Sec. 7. NRS 271.280 is hereby amended to read as follows:

271.280 1. Whenever the governing body ~~[is of the opinion that the interest of the municipality requires]~~ *of a municipality determines to form an*

*improvement district to conduct any project, ~~[the governing body, by resolution, shall direct]~~ the engineer ~~[to prepare, or may, after he has prepared, ratify.]~~ shall prepare and file with the clerk:*

(a) Preliminary plans showing:

- (1) A typical section of the contemplated improvement.
- (2) The type or types of material, approximate thickness and wideness.
- (3) A preliminary estimate of the cost of the project, including incidental costs.

(b) An assessment plat showing:

- (1) The area to be assessed.
- (2) Except as otherwise provided in NRS 271.378, the amount of maximum benefits estimated to be assessed against each tract in the assessment area.

*(c) If a resolution of the governing body does not otherwise provide, the information required pursuant to the provisions of subsections 2 to 7, inclusive.*

➡ The governing body is not required to employ the services of an appraiser to estimate or to assist the engineer in estimating the benefits to be derived from the project.

2. The ~~[resolution or ratification]~~ *preliminary plans* may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit prices, as the engineer determines is most desirable for the improvement complete in place.

3. ~~[The]~~ A resolution or document ~~[ratified]~~ *prepared by the engineer pursuant to subsection 1* must describe the project in general terms.

4. The resolution or document ~~[ratified]~~ must state:

- (a) What part or portion of the expense of the project is of special benefit and therefore is to be paid by assessments.
- (b) What part, if any, has been or is proposed to be defrayed with money derived from other than the levy of assessments.
- (c) The basis by which the cost will be apportioned and assessments levied.

5. If the assessment is not to be made according to front feet, the resolution or document ~~[ratified]~~ must:

- (a) By apt description designate the improvement district, including the tracts to be assessed.
- (b) Describe definitely the location of the project.
- (c) State that the assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received.

6. If the assessment is to be upon the abutting property upon a frontage basis, it is sufficient for the resolution or document ~~[ratified]~~ so to state and to define the location of the project to be made.

7. It is not necessary in any case to describe minutely in the resolution or document ~~[ratified]~~ each particular tract to be assessed, but simply to

designate the property, improvement district or the location, so that the various parts to be assessed can be ascertained and determined to be within or without the proposed improvement district.

8. If the preliminary plans include a commercial area vitalization project, then in addition to the other requirements in this section, before the plans are ratified by the governing body, the plans must include a plan for the management of the proposed improvement district which must include, without limitation:

- (a) The improvements proposed for each year of the first 5 fiscal years of the proposed improvement district;
- (b) An estimate of the total amount to be expended on improvements in the first year of operation;
- (c) A list of any other special assessments that are currently being levied within the proposed improvement district;
- (d) The name of any proposed association; and
- (e) Any other matter that the governing body requires to be set forth in the plan.

9. ~~The engineer shall forthwith prepare and file with the clerk:~~

~~(a) The preliminary plans; and~~

~~(b) The assessment plat.~~

10. ~~Upon the filing of the plans [and plat], plat and, if the engineer prepares a document pursuant to paragraph (c) of subsection 1, the document prepared by the engineer pursuant to paragraph (c) of subsection 1, they must be examined by the governing body. If the plans, [and] plat and document, if any, are found to be satisfactory, the governing body shall make a provisional order by resolution to the effect that the project will be acquired or improved, or both acquired and improved.~~

Sec. 8. NRS 271.405 is hereby amended to read as follows:

271.405 1. All assessments made in pursuance of the assessment ordinance are due and payable without demand within 30 days after the effective date of the assessment ordinance.

2. All such assessments may at the election of the owner be paid in installments with interest as hereinafter provided, whenever the governing body so authorizes the payment of assessments.

3. Failure to pay the whole assessment within 30 days is conclusively considered an election on the part of all persons interested, whether under disability or otherwise, to pay in installments the amount of the assessment then unpaid.

4. All persons so electing to pay in installments are conclusively considered as consenting to such projects, and such an election is conclusively considered as a waiver of all rights to question the power or jurisdiction of the municipality to acquire or improve the projects, the quality of the work, the regularity or sufficiency of the proceedings or the validity or correctness of the assessment.

5. The owner of any tract assessed may at any time pay the whole unpaid principal with the interest accrued to the next interest payment date, together with penalties, if any. The governing body may require in the assessment ordinance the payment of a premium for any such prepayment, which must not exceed ~~[by more than 3 percent the Index of Twenty Bonds which is in effect at the time the election is made, as a percentage]~~ 5 percent of the installment or installments of principal so prepaid.

6. Subject to the foregoing provisions, all installments, both of principal and interest, are payable at such times as may be determined in and by the assessment ordinance.

7. The clerk shall give notice by publication or by mail of the levy of any assessment, of the fact that it is payable, and of the last day for its payment as herein provided."

Amend section 1, page 1, line 12, after "fix" by inserting: "*by resolution or ordinance, or authorize the chief administrative officer or chief financial officer of the municipality to fix,*".

Amend section 1, page 1, line 13, by deleting "by resolution" and inserting "~~[by resolution]~~".

Amend section 1, page 1, line 15, after "adjust" by inserting: ", *or authorize the chief administrative officer or chief financial officer of the municipality to fix or adjust,*".

Amend section 1, page 2, line 24, by deleting "6" and inserting "~~[6]~~ 7".

Amend the bill as a whole by adding new sections designated sections 10 through 22, following section 1, to read as follows:

"Sec. 10. NRS 271.420 is hereby amended to read as follows:

271.420 1. The payment of the amount so assessed, including each installment thereof, the interest thereon, and any penalties and collection costs, is secured by an assessment lien upon the tract assessed from the effective date of the assessment ordinance.

2. The final assessment roll, endorsed by the clerk as the roll designated in the assessment ordinance, must be recorded in the office of the county recorder together with a statement that the current payment status of any of the assessments may be obtained from the county or municipal officer who has been directed by the governing body to collect the assessment. Neither the failure to record the assessment roll as provided in this subsection nor any defect in the roll as recorded affects the validity of the assessments, the lien for the payment thereof or the priority of that lien.

3. ~~[The]~~ *Notwithstanding the provisions of any other specific statute, the lien upon each tract assessed is:*

(a) Coequal with the latest lien thereon to secure the payment of general taxes.

(b) Not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(c) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes ~~[-]~~ *attached to the tract pursuant to the provisions of NRS 361.450.*

4. No statute of limitations begins to run against any assessment nor the assessment lien to secure its payment until after the last installment of principal thereof becomes due.

Sec. 11. NRS 271.425 is hereby amended to read as follows:

271.425 1. If a tract is divided after a special assessment thereon has been levied and divided into installments and before the collection of all the installments, the governing body may require the treasurer to apportion the uncollected amounts upon the several parts of land so divided.

2. If two or more tracts are combined or combined and redivided into two or more different tracts after a special assessment thereon has been levied and divided into installments and before the collection of all the installments, the governing body may require the treasurer to combine or combine and reapportion the uncollected amounts upon the part or parts of land that exist after the combination or combination and redivision.

3. Except to the extent limited in an ordinance that authorizes or otherwise pertains to the issuance of bonds for an improvement district, the governing body may reapportion assessments which have been levied pursuant to this chapter or apportioned pursuant to this section with the unanimous written consent of all the owners of property whose assessments will be increased by the reapportionment. The governing body is not required to obtain the consent of an owner of property whose assessment will not be affected or will be decreased by the reapportionment.

4. Assessments may be combined or reapportioned, or both, pursuant to subsections 2 and 3, only if the governing body finds that the proposed action will not:

(a) Materially or adversely impair the obligation of the municipality with respect to any outstanding bond secured by assessments; or

(b) Increase the principal balance of any assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

5. The report of an apportionment, combination or reapportionment pursuant to this section, when approved by the governing body, is conclusive on all the parties, and all assessments thereafter made upon the tracts must be according to the apportionment, combination or reapportionment so approved.

6. The report, when approved, must be recorded in the office of the county recorder together with a statement that the current payment status of any of the assessments may be obtained from the county or municipal officer who has been directed by the governing body to collect the assessment. Neither the failure to record the report as provided in this subsection nor any



defect in the report as recorded affects the validity of the assessments, the lien for the payment thereof or the priority of that lien.

7. *The governing body may by ordinance delegate to the chief financial officer or treasurer of the municipality the duties required of the governing body pursuant to this section in connection with the apportionment, combination or reapportionment of assessments. If the governing body adopts such an ordinance, the ordinance must establish parameters for the chief financial officer or treasurer in the performance of such duties.*

Sec. 12. NRS 271.428 is hereby amended to read as follows:

271.428 1. When all outstanding bonds, principal, interest and prior redemption premiums, if any, of such a district have been paid and any surplus amounts remain in the fund established pursuant to NRS 271.490 to the credit of the district, the surplus after the payment of valid claims for refund, if any, must be transferred to a surplus and deficiency fund. The governing body may at any time, by resolution or ordinance, authorize the deposit of any money otherwise available to the surplus and deficiency fund.

2. *Amounts in the surplus and deficiency fund may be used by the governing body to pay costs incurred in connection with:*

(a) *The issuance of refunding bonds pursuant to NRS 271.488; or*

(b) *Collecting delinquent assessments pursuant to NRS 271.445 and 271.540 to 271.630, inclusive.*

3. Whenever there is a deficiency in any fund established pursuant to NRS 271.490 for the payment of the bonds and interest thereon for any improvement district created pursuant to former NRS 244A.193 or pursuant to NRS 271.325 or 318.070, the deficiency must first be paid out of the surplus and deficiency fund to the extent of the money available in the fund before any payment is made out of the general fund of the municipality as provided by NRS 271.495.

~~{3-}~~ 4. Amounts in the surplus and deficiency fund which exceed 10 percent of the principal amount of outstanding bonds of the municipality for all improvement districts created pursuant to former NRS 244A.193 or pursuant to NRS 271.325 or 318.070 at the end of each fiscal year may be used:

(a) To make up deficiencies in any assessment which proves insufficient to pay for the cost of the project or work for which the assessment has been levied.

(b) To advance amounts for the cost of any project or work in any district created pursuant to any of these sections.

(c) To provide for the payment of assessments levied against, or attributable to, property owned by the municipality or the Federal Government.

~~{4-}~~ 5. At the end of each fiscal year any excess amount described in subsection ~~{3}~~ 4 may be transferred to the general fund of the municipality as the governing body directs by resolution.

Sec. 13. NRS 271.429 is hereby amended to read as follows:

271.429 1. Except as otherwise provided in subsection 2, when all outstanding bonds, principal, interest and prior redemption premiums, if any, of a district have been paid, surplus amounts remaining in the special fund created for that district pursuant to NRS 271.490 must be refunded as follows:

(a) If amounts have been advanced from the general fund of the municipality as required by NRS 271.495 for the payment of any bonds or interest thereon of such district, those amounts must first be returned to the general fund of the municipality.

(b) If a surplus and deficiency fund has been established pursuant to NRS 271.428, and amounts have been advanced from the surplus and deficiency fund for the payment of bonds or interest thereon of such district, those amounts must be returned to the surplus and deficiency fund.

(c) The treasurer shall thereupon determine the amount remaining in the fund created for the district pursuant to NRS 271.490 and deduct therefrom the amount of administrative costs of returning that surplus ~~[-]~~ *and any other administrative costs incurred by the municipality related to the improvement district or the project which have not been otherwise reimbursed*. An amount equal to the actual administrative costs must be returned to the fund from which the administrative costs were paid.

(d) If the remaining surplus is ~~[\$10,000]~~ \$25,000 or less, that amount must be deposited to the surplus and deficiency fund.

(e) If the remaining surplus is more than ~~[\$10,000,]~~ \$25,000, the treasurer shall:

(1) Deposit ~~[\$10,000]~~ \$25,000 in the surplus and deficiency fund;

(2) Apportion the amount of the surplus in excess of ~~[\$10,000]~~ \$25,000 among the tracts of land assessed in the district; and

(3) Report this apportionment to the governing body.

(f) Upon the approval of this apportionment by the governing body, the treasurer shall thereupon give notice by mail and by publication of the availability of the surplus for refund.

(g) The notice must also state that the owner or owners of record on the date specified by the notice of each tract of land which was assessed may request the refund of the surplus apportioned to that tract by filing a claim therefor with the treasurer within 60 days after the date of the mailing of the notice. Thereafter claims for such refunds are perpetually barred.

(h) Surplus amounts, if any, remaining after the payment of all valid claims filed with the treasurer within the 60-day period must be transferred to the surplus and deficiency fund.

(i) Valid claims for refund filed in excess of the surplus available for each separate tract may be apportioned ratably among the claimants by the treasurer.

2. Subsection 1 does not apply to change or alter the distribution of any surplus pursuant to a written agreement that was entered into by a district on or before June 18, 1993.

Sec. 14. NRS 271.445 is hereby amended to read as follows:

271.445 1. When any assessment is so levied by ordinance *against property, including, without limitation, property owned by a person or property owned by this State or any political subdivision of this State*, and is payable, the governing body shall direct:

(a) The clerk to report to the county assessor a description of such tracts as are contained in the roll, with the amount of the assessment levied upon each and the name of the owner or occupant against whom the assessment was made.

(b) The municipal treasurer or the county treasurer to collect the several sums so assessed.

2. If the municipal treasurer has been directed to collect unpaid assessments, the amount so levied in the assessment roll *against property, including, without limitation, property owned by a person or property owned by this State or any political subdivision of this State*, shall be collected and enforced, both before and after delinquency, in the manner provided in NRS 271.540 to 271.625, inclusive, except as otherwise provided in the ordinance levying the assessments.

3. If the county treasurer has been directed to collect unpaid assessments, the amount so levied in the assessment roll *against property, including, without limitation, property owned by a person or property owned by this State or any political subdivision of this State*, shall be collected and enforced, both before and after delinquency, by the county treasurer and other county officers, as provided by law, with the other taxes in the general assessment roll of the county, and in the same manner, except as otherwise provided in the ordinance levying the assessments.

4. Such amounts shall continue to be a lien upon the tracts assessed until paid, as provided in NRS 271.420.

5. When such amount is collected, it shall be credited to the proper funds.

6. The assessment roll and the certified ordinance levying the assessment shall be prima facie evidence of the regularity of the proceedings in making the assessment and of the right to recover judgment therefor.

7. *If the ordinance authorizing the levy of assessments provides for the reduction or waiver of penalties assessed pursuant to subsection 4 of NRS 271.415 or interest incurred pursuant to NRS 271.585 and the governing body so approves, the treasurer may reduce or waive the collection of any such penalties or interest.*

Sec. 15. NRS 271.485 is hereby amended to read as follows:

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in NRS 271.487 and 271.730, at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project.

3. Except as otherwise provided in *subsection 4 and* NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less than any rate of interest of the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. *Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.*

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

~~{5-}~~ 6. Any accrued interest ~~{and any premium}~~ must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

~~{6-}~~ 7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

~~{7-}~~ 8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

~~{8-}~~ 9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

~~{9.}~~ 10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.

~~{10.}~~ 11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 16. NRS 271.488 is hereby amended to read as follows:

271.488 1. The governing body may issue one or more series of bonds to refund all or any portion of the outstanding bonds of one or more improvement districts. The bonds must be issued pursuant to the provisions of this chapter and the Local Government Securities Law.

2. For the purposes of the Local Government Securities Law, the bonds issued to refund all or any portion of the outstanding bonds of one or more improvement districts shall be deemed special obligations and the assessments shall be deemed net pledged revenues. ~~{H}~~ *Except as otherwise provided in subsection 7, if the bonds are issued, the governing body shall, by resolution, reduce the rate of interest on the uncollected installments of assessments. The rate of interest must not exceed the amount set forth in NRS 271.415, plus any amount necessary to pay the costs of the refunding.*

3. Refinancing bonds issued pursuant to the provisions of this section must be secured by the assessments levied against specifically identified tracts of assessable property and may have any other terms or security that are allowed for any other bonds issued pursuant to the provisions of this chapter, except any bond issued to refund all or any portion of the outstanding bonds of one or more improvement districts must mature within ~~{20}~~ 30 years after the date such a bond is issued.

4. A refunding bond issued pursuant to this section may refund all or any portion of the outstanding bonds of one or more improvement districts and may be secured by a combination of assessments levied on all or a specifically identified portion of the assessed property located within the district or districts.

5. Two or more series of refunding bonds may be issued to refund the outstanding bonds of one or more districts and each series may be secured by

assessments levied on different portions of assessed property located within the district or districts whose bonds are outstanding.

6. Except as otherwise provided in subsection 7 or 8, the governing body, in connection with the issuance of refunding bonds pursuant to this section, may amend the assessment ordinance to amend the following terms of all or a portion of the assessments authorized in the ordinance:

- (a) The rate of interest the governing body charges on unpaid installments;
- (b) Any penalties for prepayment of assessments;
- (c) The amounts of unpaid installments;
- (d) The principal balance of assessments;
- (e) The dates upon which unpaid installments are due;
- (f) The number of years over which unpaid installments are due; and
- (g) Any other term, if the term, as amended, would comply with the provisions of this chapter.

7. Before a governing body may amend an assessment ordinance to increase the principal and interest of any assessment, the number of years over which unpaid installments are due or the amount of any unpaid installments, it must:

- (a) Obtain the written consent of the owner of each tract that would be affected by the proposed amendment to the ordinance; or
- (b) Hold a hearing on the proposed amendment and give notice of that hearing in the manner set forth in NRS 271.305. If the owners of the tracts upon which more than one-half of the affected assessments, measured by the unpaid assessment balance, submit written protests to the governing body on or before the date of the hearing, the governing body shall not adopt the proposed amendment to the assessment ordinance.

8. To issue refunding bonds or to amend an assessment ordinance pursuant to this section, the governing body must find that:

- (a) The obligation of the municipality will not be materially or adversely impaired with respect to any outstanding bond secured by assessments; and
- (b) The principal balance of any assessment will not increase to an amount such that the aggregate amount that is assessed against the tract exceeds the minimum benefit to the tract that is estimated to result from the project that is financed by the assessment and the refunding of the outstanding bonds.

Sec. 17. NRS 271.490 is hereby amended to read as follows:

271.490 ~~{The}~~

1. *Except as otherwise provided in subsection 3, the assessments, when levied, shall be and remain a lien on the respective tracts of land assessed until paid, as provided herein, and, when collected, shall be placed in a special fund and as such shall at all times constitute a sinking fund for and be deemed specially appropriated to the payment of the assessment bonds and interest thereon, and shall not be used for any other purpose until the bonds and interest thereon are fully paid, except for the assessments paid during the 30-day payment period provided in NRS 271.405 and applied directly to the costs of the project.*

2. *Penalties, collection costs and interest on a delinquency imposed pursuant to subsection 4 of NRS 271.415 or 271.585 in connection with the collection of an assessment or an installment payment that is not paid when it comes due may be deposited in any fund or account of the municipality designated by the governing body or designated by the chief financial officer of the municipality if the governing body has authorized the chief financial officer to make such a designation.*

3. *If permitted by the ordinance authorizing the issuance of a bond, the assessments and any penalties, collection costs or interest not needed in any year to pay the principal and interest on the bonds may be used to pay the administrative costs of the municipality incurred in connection with the district and the collection of the assessments.*

Sec. 18. NRS 271.515 is hereby amended to read as follows:

271.515 1. Any assessment bonds:

- (a) Must bear such date or dates;
  - (b) Must mature in such denomination or denominations at such time or times, but in no event commencing later than ~~{1-year}~~ 3 years nor exceeding ~~{20}~~ 30 years after their date;
  - (c) Must bear interest payable at such intervals, but not less often than annually;
  - (d) Must be payable in such medium of payment at such place or places within and without the State, including, but not limited to, the office of the county treasurer; and
  - (e) At the option of the governing body, may be made subject to prior redemption in advance of maturity, in such order or by lot or otherwise, at such time or times, without or with the payment of a premium or premiums not exceeding ~~{9}~~ 5 percent of the principal amount of each bond so redeemed,
- ↪ as provided by ordinance.

2. Bonds may be issued with privileges for registration for payment as to principal, or both principal and interest, and the bonds may provide for the endorsing of payments of interest thereon. The bonds generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, with such provisions for conversion into bonds of other denominations, and with such other details, as may be provided by the governing body in the ordinance or ordinances authorizing the bonds, except as herein otherwise provided.

3. Pending preparations of the definitive bonds, interim or temporary bonds, in such form and with such provisions as the governing body may determine, may be issued.

4. Except for payment provisions herein expressly provided, the bonds and such interim or temporary bonds must be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Negotiable Instruments and the Uniform Commercial Code—Investment Securities.

5. Notwithstanding any other provisions of law, the governing body, in any proceedings authorizing bonds hereunder, may:

(a) Provide for the initial issuance of one or more bonds, in this subsection called "bond," aggregating the amount of the entire issue or any portion thereof.

(b) Make such provision for installment payments of the principal amount of any such bond as it may consider desirable.

(c) Provide for the making of any such bond payable to bearer or otherwise, registrable as to principal, or as to both principal and interest, and for the endorsing of payments of interest on such bond.

(d) Make provision in any such proceedings for the manner and circumstances in and under which any such bond may in the future, at the request of the holder thereof, be converted into bonds of larger or smaller denominations.

6. Any bonds may be issued hereunder with provisions for their reissuance, and the terms and conditions thereof, whether lost, apparently destroyed, wrongfully taken, or for any other reason, as provided in the Uniform Commercial Code—Investment Securities, or otherwise.

7. Any bond must be executed in the name of and on behalf of the municipality and signed by the mayor, chairman or other presiding officer of the governing body, countersigned by the treasurer of the municipality, with the seal of the municipality affixed thereto and attested by the clerk.

8. Any bond may be executed as provided in the Uniform Facsimile Signatures of Public Officials Act.

9. The bonds bearing the signatures of the officers in office at the time of the signing thereof are the valid and binding obligations of the municipality, notwithstanding that before the delivery thereof and payment therefor, any or all of the persons whose signatures appear thereon have ceased to fill their respective offices.

10. Any officer herein authorized or permitted to sign any bond, at the time of its execution and of the execution of a signature certificate, may adopt as and for his own facsimile signature the facsimile signature of his predecessor in office in the event that such facsimile signature appears upon the bond.

Sec. 19. NRS 271.545 is hereby amended to read as follows:

271.545 1. All assessments and installments thereof shall be collected and enforced by the municipal treasurer at the times and in the manner provided by the Consolidated Local Improvements Law and as hereafter provided. As soon as any assessment or installment becomes delinquent, the municipal treasurer shall mark the same delinquent on the assessment roll. Within 60 days thereafter, the governing body shall direct the municipal treasurer to give notice of the sale of the property or properties subject to the lien of a delinquent installment or the entire assessment if the governing body has exercised its option to cause the whole amount of the unpaid principal to become due and payable. The notice shall contain:



~~{1.}~~ (a) The name of each last known owner of each tract upon which an assessment or installment thereof is delinquent, or if not known that the name is unknown.

~~{2.}~~ (b) A description of each tract upon which an assessment is delinquent, and the total amount due thereon, including the delinquent installment or the whole assessment, as the case may be, accrued interest upon the whole amount of unpaid principal to the date of delinquency, interest upon unpaid principal and accrued interest from the date of delinquency to the date of sale at a rate not exceeding 1 percent per month, penalties and collection costs, including attorney's fees.

~~{3.}~~ (c) A statement of the time and place of sale.

~~{4.}~~ (d) A statement that each property described will be sold to satisfy the total amount due thereon as aforesaid.

2. *A governing body may adopt an ordinance to establish the procedures for conducting a sale of a property pursuant to the provisions of NRS 271.540 to 271.620, inclusive, including, without limitation, the method of determining the person who shall be permitted to purchase a property at such a sale.*

Sec. 20. NRS 271.595 is hereby amended to read as follows:

271.595 1. Any property sold for an assessment, or any installment thereof, is subject to redemption by the former owner, or his grantee, mortgagee, heir or other representative after:

(a) If there was a permanent residential dwelling unit or any other significant permanent improvement on the property at the time the sale was held pursuant to NRS 271.555, as determined by the governing body, at any time within 2 years; or

(b) In all other cases, at any time within 120 days,  
 ➤ after the date of the certificate of sale, upon payment to the municipal treasurer of the amount for which the property was sold, with interest thereon at a rate of not exceeding 1 percent per month, together with all taxes and special assessments, or installments thereof, interest, penalties, costs and other charges, thereon paid by the purchaser since the sale, with like interest thereon. Unless written notice of taxes and assessments subsequently paid, and the amount thereof, is deposited with the treasurer, redemption may be made without their inclusion.

2. On any redemption being made, the treasurer shall give to the redemptioner a certificate of redemption, and pay over the amount received to the purchaser of the certificate of sale or his assigns.

3. If no redemption is made within the period of redemption as determined pursuant to subsection 1, the treasurer shall, on demand of the purchaser or his assigns, and the surrender to him of the certificate of sale, execute to the purchaser or his assigns a deed to the property. No deed may be executed until the holder of the certificate of sale has notified the owners of the property that he holds the certificate, and that he will demand a deed therefor. The notice must be given by personal service upon the owner.

However, if an owner is not a resident of the State or cannot be found within the State after diligent search, the notice may be given by publication. The notice and return thereof, with the affidavit of the person, or in the case of the municipality, of the clerk, claiming a deed, showing that service was made, must be filed with the treasurer.

4. If redemption is not made within 60 days after the date of service, or the date of the first publication of the notice, as the case may be, the holder of the certificate of sale is entitled to a deed. The deed must be executed only for the property described in the certificate, and after payment of all delinquent taxes and special assessments, or installments thereof, whether levied or assessed before or after the issuance of the certificate of sale. A deed may be issued to any municipality for the face amount of the certificate of sale, plus accrued interest from the date of sale to the date of the execution of the deed at a rate of not exceeding 1 percent per month.

5. *Any payment related to a redemption pursuant to this section sent to a municipality by mail shall be deemed to have been made on the date on which the municipality received the payment.*

Sec. 21. NRS 271.710 is hereby amended to read as follows:

271.710 1. A governing body may adopt an ordinance pursuant to NRS 271.325 creating a district and ordering a project to be acquired or improved and may contract with a person to construct or improve a project, issue bonds or otherwise finance the cost of the project and levy assessments, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.330 to 271.345, inclusive, 271.380 and 271.385 and , except as otherwise provided in this section, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, chapters 332, 338 and 339 of NRS, if the governing body has entered into a written agreement with the owners of all of the assessable property within the district which states that:

(a) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the project or projects in the district which includes:

(1) A provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract; and

(2) The price, stated as a lump sum or as unit prices, which the governing body agrees to pay for the project if the project meets all requirements and specifications in the contract.

(b) The owners of the assessable property agree that if the rate of interest on any assessment levied for the district is determined from time to time as provided in NRS 271.487, the owners will provide written notice to the governing body in a timely manner when a parcel of the assessable property in the district is sold to a person who intends to occupy a dwelling unit on the parcel as his residence.

(c) The owners of the assessable property agree that the governing body may create the district, levy the assessments and for all other purposes relating to the district proceed pursuant to the provisions of this section.

2. If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:

(a) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the district. The assessments may be redistributed between the assessable property originally in the district and the additional assessable property if:

(1) The owners of additional assessable property also consent in writing to inclusion of their property in the district and to the amount of the assessment against their property; and

(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.

(b) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the district. The assessments may be redistributed among the assessable property remaining in the district if:

(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and

(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district.

(c) The governing body may adopt any ordinance pertaining to the district including the ordinance creating the district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.

(d) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the district and include all or any portion of the costs thereof in the amounts assessed against the property in the district and in the amount of bonds issued for the district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds,

for the disposition of unexpended bond proceeds after completion of the project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the district.

3. *If the governing body of a municipality forms a district pursuant to the provisions of this section, the governing body:*

(a) *Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.280, 271.310, 271.360 and 271.390.*

(b) *Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.320 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the project and to construct the project.*

Sec. 22. NRS 361.450 is hereby amended to read as follows:

361.450 1. Except as otherwise provided in subsection 3, every tax levied under the provisions of or authority of this chapter is a perpetual lien against the property assessed until the tax and any penalty charges and interest which may accrue thereon are paid. Notwithstanding the provisions of any other specific statute, such a lien *and a lien for unpaid assessments imposed pursuant to chapter 271 of NRS* is superior to all other liens, claims, encumbrances and titles on the property, including, without limitation, interests secured pursuant to the provisions of chapter 104 of NRS, whether or not the lien was filed or perfected first in time.

2. Except as otherwise provided in this subsection and NRS 361.739, the lien attaches on July 1 of the year for which the taxes are levied, upon all property then within the county. The lien attaches upon all migratory property, as described in NRS 361.505, on the day it is moved into the county. If real and personal property are assessed against the same owner, a lien attaches upon such real property also for the tax levied upon the personal property within the county. A lien for taxes on personal property also attaches upon real property assessed against the same owner in any other county of the State from the date on which a certified copy of any unpaid property assessment is filed for record with the county recorder in the county in which the real property is situated.

3. All liens for taxes levied under this chapter which have already attached to a mobile or manufactured home expire on the date when the mobile or manufactured home is sold, except the liens for personal property taxes due in the county in which the mobile or manufactured home was situate at the time of sale, for any part of the 12 months immediately preceding the date of sale.

4. All special taxes levied for city, town, school, road or other purposes throughout the different counties of this State are a lien on the property so assessed, and must be assessed and collected by the same officer at the same time and in the same manner as the state and county taxes are assessed and collected."

Amend the title of the bill to read as follows:

"AN ACT relating to local improvements; revising various provisions governing local improvements and the payment of assessments related to a local improvement; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"SUMMARY—Makes various changes relating to local improvements. (BDR 21-1293)".

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 464.

Bill read second time.

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

Amendment No. 427.

Amend section 1, page 2, line 2, by deleting "or".

Amend section 1, page 2, by deleting line 4 and inserting: "*thereof; or*

*(c) The Public Employees' Retirement System or an agent or representative thereof.*".

Amend sec. 2, page 2, by deleting lines 14 through 16 and inserting: "securities on behalf of the depository for the benefit of the State Treasurer ~~[-]~~ pursuant to NRS 356.300 to 356.390, inclusive;"

Amend the bill as a whole by renumbering sections 8 through 10 as sections 15 through 17 and adding new sections designated sections 8 through 14, following sec. 7, to read as follows:

"Sec. 8. NRS 349.227 is hereby amended to read as follows:

349.227 1. ~~[The]~~ *In the case of securities bearing interest at a variable rate, or in the case of securities with a term of 270 days or less, the act or resolution authorizing the issuance of any state securities or any trust indenture or other instrument appertaining thereto may fix a rate or rates of interest or provide for the determination of the rate or rates from time to time by a designated agent according to the procedure specified in that resolution or other instrument. The rate so determined must approximate the rates then being paid for other securities which contain similar provisions and have an equivalent rating. The Commission may contract with or select any person to make that determination ~~[-]~~, and shall specify parameters for the interest rate if it is fixed by such an agent.*

2. The Commission may enter into an agreement with a third party for an assurance of payment of the principal of, the interest on, or premiums, if any, due in connection with any state securities issued by the Commission. The obligation of the Commission to reimburse that third party for any advances made pursuant to that agreement may be provided in that agreement, recited in those securities or evidenced by another instrument as designated in the act or resolution authorizing the issuance of those securities or any other

instrument appertaining thereto. The Commission may assign its rights under that agreement.

Sec. 9. NRS 349.303 is hereby amended to read as follows:

349.303 1. The Commission may, before any sale of ~~{bonds,}~~ securities, delegate to the treasurer or his designee, *or an agent in the case of securities described in subsection 1 of NRS 349.227*, the authority to sign a contract for the purchase of the ~~{bonds,}~~ securities or to accept a binding bid for the ~~{bonds,}~~ securities subject to the requirements specified by the Commission concerning:

- (a) The rate of interest on the ~~{bonds,}~~ securities;
- (b) The dates on which and the prices at which the ~~{bonds,}~~ securities may be called for redemption before maturity;
- (c) The price at which the ~~{bonds,}~~ securities will be sold; and
- (d) The principal amount of the ~~{bonds,}~~ securities and the amount of principal maturing in any particular year.

2. All terms of the ~~{bonds,}~~ securities other than:

- (a) The rate of interest;
  - (b) The dates and prices for the redemption of the ~~{bonds,}~~ securities;
  - (c) The price for the sale of the ~~{bonds,}~~ securities;
  - (d) The principal amount of the ~~{bonds,}~~ securities; and
  - (e) The requirements for the principal maturing in particular years,
- ↪ must be approved by the Commission before the ~~{bonds,}~~ securities are delivered.

3. The final rate of interest, dates and prices of redemption, price for the sale of the ~~{bonds,}~~ securities, principal amount and the requirements for the principal amount maturing in particular years are not required to be approved by the Commission if each of those terms complies with the requirements specified by the Commission before the contract for the purchase of the ~~{bonds,}~~ securities is signed or the bid for the ~~{bonds,}~~ securities is accepted.

Sec. 10. NRS 350.165 is hereby amended to read as follows:

350.165 1. The governing body of a municipality may, before any sale of bonds, whether by competitive bid or negotiated sale, delegate to the chief administrative officer or chief financial officer of the municipality, *or an agent in the case of securities described in subsection 1 of NRS 350.583*, the authority to sign a contract for the purchase of the bonds or to accept a binding bid for the bonds subject to the requirements specified by the governing body concerning:

- (a) The rate of interest on the bonds;
- (b) The dates on which and the prices at which the bonds may be called for redemption before maturity;
- (c) The price at which the bonds will be sold; and
- (d) The principal amount of the bonds and the amount of principal maturing in any particular year.

2. All terms of the bonds other than:

- (a) The rate of interest;

- (b) The dates and prices for the redemption of the bonds;
  - (c) The price for the sale of the bonds;
  - (d) The principal amount of the bonds; and
  - (e) The requirements for the principal maturing in particular years,
- ➔ must be approved by the governing body of the municipality before the bonds are delivered.

3. The final rate of interest, dates and prices of redemption, price for the sale of the bonds, principal amount and the requirements for the principal amount maturing in particular years are not required to be approved by the governing body of the municipality if each of those terms complies with the requirements specified by the governing body before the contract for the purchase of the bonds is signed or the bid for the bonds is accepted.

Sec. 11. NRS 350.583 is hereby amended to read as follows:

350.583 1. ~~[The]~~ *In the case of securities bearing interest at a variable rate, or in the case of securities with a term of 270 days or less which are issued by a municipality whose population is 50,000 or more, the ordinance or resolution authorizing the issuance of any municipal securities or any trust indenture or other instrument appertaining thereto may fix a rate or rates of interest or provide for the determination of the rate or rates from time to time by a designated agent according to the procedure specified in that ordinance or other instrument. The rate so determined must approximate the rates then being paid for other securities which contain similar provisions and have an equivalent rating. A governing body of a municipality may contract with or select any person to make that determination ~~[—]~~, and shall specify parameters for the interest rate if it is fixed by such an agent.*

2. A governing body of a municipality may enter into an agreement with a third party for an assurance of payment of the principal of, the interest on, or premiums, if any, due in connection with any municipal securities issued by the governing body. The obligation of the governing body to reimburse that third party for any advances made pursuant to that agreement may be provided in that agreement, recited in those securities or evidenced by another instrument as designated in the ordinance or resolution authorizing the issuance of those securities or any other instrument appertaining thereto. The governing body may assign its rights under that agreement.

Sec. 12. NRS 350A.152 is hereby amended to read as follows:

350A.152 1. Before state securities may be issued pursuant to this chapter for the purpose of acquiring bonds which are issued by a water authority organized as a political subdivision created by cooperative agreement that operates in all or a portion of a county whose population is 400,000 or more:

- (a) ~~[The]~~ *Except for refunding bonds, the water authority must obtain approval for the bonds from the debt management commission of each county in which any member of the water authority that is obligated to make payments on the bonds of the water authority is located; and*

(b) The members of the water authority must contract with the water authority to make payments from the revenues of the members' water systems that, in the aggregate, are fully sufficient to pay those bonds as they become due. If the water revenues of any such member are insufficient to pay that member's share of the amount due on the bonds, the member shall pay the deficiency out of money available for that purpose in the general fund of the member. If the money in the general fund of the member is insufficient to pay fully any such deficiency promptly, the member shall levy a general ad valorem tax on all taxable property within the member's boundaries at a rate necessary to produce revenue in an amount sufficient to pay that member's share of the payments due on the bonds.

2. Notwithstanding the provisions of paragraph (a) of subsection 1, the obligations of the members of the water authority to the water authority and the State of Nevada as a result of the acquisition of bonds of the water authority pursuant to this chapter do not constitute indebtedness of the members within the meaning of any constitutional, charter or statutory limitation or other provisions restricting the incurrence of any debt.

3. A property tax levied pursuant to this section:

(a) Shall be considered to have been levied for the payment of bonded indebtedness for the purposes of NRS 361.463.

(b) Is exempt from the limitations on property taxes contained in chapter 354 of NRS.

Sec. 13. NRS 396.8455 is hereby amended to read as follows:

396.8455 1. The Board may, before any sale of securities, whether by competitive bid or negotiated sale, delegate to the Chancellor of the University or the Vice Chancellor for Finance of the University , *or an agent in the case of securities described in subsection 1 of NRS 396.8495*, the authority to sign a contract for the purchase of the securities or to accept a binding bid for the securities subject to the requirements specified by the Board concerning:

- (a) The rate of interest on the securities;
- (b) The dates on which and the prices at which the securities may be called for redemption before maturity;
- (c) The price at which the securities will be sold; and
- (d) The principal amount of the securities and the amount of principal maturing in any particular year.

2. All terms of the securities other than:

- (a) The rate of interest;
  - (b) The dates and prices for the redemption of the securities;
  - (c) The price for the sale of the securities;
  - (d) The principal amount of the securities; and
  - (e) The requirements for the principal maturing in particular years,
- must be approved by the Board before the securities are delivered.

3. The final rate of interest, dates and prices of redemption, price for the sale of the securities, principal amount and the requirements for the principal



amount maturing in particular years are not required to be approved by the Board if each of those terms complies with the requirements specified by the Board before the contract for the purchase of the securities is signed or the bid for the securities is accepted.

Sec. 14. NRS 396.8495 is hereby amended to read as follows:

396.8495 1. ~~The~~ *In the case of securities bearing interest at a variable rate, or in the case of securities with a term of 270 days or less, the resolution authorizing the issuance of any securities or any trust indenture or other instrument appertaining thereto may fix a rate or rates of interest or provide for the determination of the rate or rates from time to time by a designated agent according to the procedure specified in that resolution or other instrument. The rate so determined must approximate the rates then being paid for other securities which contain similar provisions and have an equivalent rating. The Board may contract with or select any person to make that determination [—], and shall specify parameters for the interest rate if it is fixed by such an agent.*

2. The Board may enter into an agreement with a third party for an assurance of payment of the principal of, the interest on, or premiums, if any, due in connection with any securities issued by the Board. The obligation of the Board to reimburse that third party for any advances made pursuant to that agreement may be provided in that agreement, recited in those securities or evidenced by another instrument as designated in the resolution authorizing the issuance of those securities or any other instrument appertaining thereto. The Board may assign its rights under that agreement.

3. In fixing the rate or rates of interest for securities pursuant to subsection 1 or the rate or rates of interest imposed on the Board for reimbursement of any advances made under an agreement pursuant to subsection 2, the Board is not subject to any limitations on rates of interest provided by statute, including, without limitation, NRS 396.852. The resolution fixing that rate or rates of interest must contain the findings of the Board that the procedure specified therein for determining that rate or rates is reasonable under existing or anticipated conditions in the market and is necessary and advisable for marketing the securities. These findings are conclusive. This section does not prohibit the Board from fixing a maximum rate of interest."

Amend the title of the bill, fifth line, after "Controller;" by inserting: "revising various provisions relating to the issuance and interest rate of certain securities; revising the authority of certain agents in regard to certain securities;"

Senator Raggio moved the adoption of the amendment.

Remarks by Senators Hardy and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read second time.

The following amendment was proposed by Senators Horsford and Wiener:

Amendment No. 646.

Amend section 1, page 4, line 21, by deleting "*shall*" and inserting "*must*".

Amend the bill as a whole by deleting sec. 2 and renumbering sections 3 and 4 as sections 2 and 3.

Amend sec. 3, page 6, line 34, by deleting "[12] 10" and inserting "12".

Amend sec. 3, page 7, line 3, by deleting "*1 year*" and inserting "*2 years*".

Amend the bill as a whole by deleting sections 5 and 6 and renumbering sections 7 through 11 as sections 4 through 8.

Amend sec. 7, pages 10 and 11, by deleting lines 29 through 44 on page 10 and lines 1 through 28 on page 11, and inserting:

"213.090 1. ~~[Except as otherwise provided in subsection 2, a person who is granted a pardon for any offense committed:~~

(a) ~~Is immediately restored to the following civil rights:~~

(1) ~~The right to vote; and~~

(2) ~~The right to serve as a juror in a civil action.~~

(b) ~~Four years after the date that his pardon is granted, is restored to the right to hold office.~~

(c) ~~Six years after the date that his pardon is granted, is restored to the right to serve as a juror in a criminal action.~~

2. ~~Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been granted a pardon if the person has previously been convicted in this State:~~

(a) ~~Of a category A felony.~~

(b) ~~Of an offense that would constitute a category A felony if committed as of the date that his pardon is granted.~~

(c) ~~Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.~~

(d) ~~Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date that his pardon is granted.~~

(e) ~~Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.~~

~~↪ A person described in this subsection may petition the court in which the person was convicted for an order granting the restoration of his civil rights as set forth in subsection 1.~~

3. ~~Except for a person subject to the limitations set forth in subsection 2, upon receiving a pardon, a person so pardoned must be given an official document which provides:~~

(a) ~~That he has been granted a pardon;~~

~~(b) That he has been restored to his civil rights to vote and to serve as a juror in a civil action as of the date that his pardon is granted;~~

~~(c) The date on which his civil right to hold office will be restored to him pursuant to paragraph (b) of subsection 1; and~~

~~(d) The date on which his civil right to serve as a juror in a criminal action will be restored to him pursuant to paragraph (c) of subsection 1.~~

~~4. Subject to the limitations set forth in subsection 2, a] A person who is granted a full, unconditional pardon by the Board is restored to all civil rights and is relieved of all disabilities incurred upon conviction.~~

2. A pardon granted by the Board shall be deemed to be a full, unconditional pardon unless the official document issued pursuant to subsection 3 explicitly limits the restoration of the civil rights of the person or does not relieve the person of all disabilities incurred upon conviction.

3. Upon being granted a pardon by the Board, a person so pardoned must be given an official document which provides that he has been granted a pardon. If the person has not been granted a full, unconditional pardon, the official document must explicitly state all limitations on the restoration of the civil rights of the person and all disabilities incurred upon conviction from which the person is not relieved.

4. A person".

Amend sec. 8, pages 12 through 14, by deleting lines 20 through 44 on page 12, lines 1 through 45 on page 13 and lines 1 through 3 on page 14, and inserting:

"3. A dishonorable discharge from parole releases the parolee from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution, but does not entitle the parolee to any privilege conferred by NRS 213.155."

Amend sec. 9, page 15, line 28, by deleting "shall" and inserting "must".

Amend sec. 10, page 17, line 5, by deleting "shall" and inserting "must".

Amend the bill as a whole by deleting sec. 12, renumbering sec. 13 as sec. 10 and adding a new section designated sec. 9, following sec. 11, to read as follows:

"Sec. 9. 1. Notwithstanding any other provision of law, except as otherwise provided in subsection 2, a person who was dishonorably discharged from probation or parole before the effective date of this act may, until July 1, 2008, apply to the Division of Parole and Probation of the Department of Public Safety, in accordance with the regulations adopted by the Division pursuant to this section, to request that his dishonorable discharge from probation or parole be changed to an honorable discharge from probation or parole.

2. A person who was dishonorably discharged from probation or parole may not apply to change his discharge to an honorable discharge pursuant to this section if his dishonorable discharge was based, in whole or in part, upon:

(a) The fact that he committed a new crime during the period of his probation or parole;

(b) The fact that his whereabouts were unknown at the time of his discharge from probation or parole; or

(c) Any incident involving his commission of a violent act or an act that threatened public safety during the period of his probation or parole.

3. The Division shall adopt regulations establishing guidelines and procedures to be used to carry out the provisions of this section. The regulations must include, without limitation, provisions requiring that to be granted a change of discharge pursuant to this section, if an applicant failed to make full restitution as ordered by the court or failed to pay the fees to defray the cost of his supervision as required pursuant to NRS 213.1076, the applicant must have made or must be making an effort in good faith and satisfactory progress towards paying the restitution ordered or fees owed, as determined by the Division.

4. A person whose application for a change of discharge is granted by the Division and whose discharge from probation or parole is changed to an honorable discharge from probation or parole pursuant to this section:

(a) Shall be deemed to have been issued an honorable discharge from probation or parole effective as of the date of his original dishonorable discharge from probation or parole;

(b) Is subject to, and must be restored to his civil rights in accordance with, the provisions of NRS 176A.850 or 213.155, as amended by this act; and

(c) Must be given an official document which:

(1) Provides that he has received an honorable discharge from probation or parole; and

(2) States, as applicable, the dates on which his civil rights to vote, to serve as a juror in a civil action, to hold office and to serve as a juror in a criminal action will be restored to him.

5. The Division shall, on or before January 1, 2008, submit a written report to the Director of the Legislative Counsel Bureau that includes, without limitation, the following information:

(a) The number of persons who applied for a change of discharge pursuant to this section;

(b) The number of applications that were granted or denied and the general reasons for denial of the applications;

(c) The estimated amount of restitution and fees for supervision paid as the result of the enactment of this section;

(d) Any recommendations and conclusions concerning the desirability of extending the application of the provisions of this section; and

(e) Any other information deemed appropriate by the Division."

Amend the title of the bill by deleting the fourth through eighth lines and inserting:

"to vote; revising the provisions pertaining to the restoration of civil rights pursuant to a pardon issued by the State Board of Pardons Commissioners; reducing the period that persons convicted of certain crimes must wait before petitioning to seal the records relating to their conviction; authorizing certain persons who were dishonorably discharged from probation or parole to apply, during a limited period, to change their dishonorable discharge to an honorable discharge under certain circumstances; and providing other".

Amend the bill as a whole by adding the following Assemblyman as a primary joint sponsor:

Assemblyman Munford.

Senator Horsford moved the adoption of the amendment.

Remarks by Senators Horsford and Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 457.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 476.

Amend the bill as a whole by deleting sections 1 through 3 and adding new sections designated sections 1 through 5, following the enacting clause, to read as follows:

"Section 1. Chapter 369 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in NRS 369.4865, a retail liquor store may receive and store liquor and transfer an original package of liquor to another retail liquor store, and that other retail liquor store may receive the original package of liquor pursuant to the transfer, if:*

*(a) Each retail liquor store is in the marketing area of the wholesale dealer that holds the franchise for the brand of liquor purchased as indicated by the forms filed by the wholesale dealer with the Department;*

*(b) The retail liquor store obtains a special permit for the transportation pursuant to subsection 4 of NRS 369.450; and*

*(c) The initial retail liquor store:*

*(1) Obtained the original package of liquor in compliance with the provisions of this chapter and chapter 597 of NRS; and*

*(2) Is an affiliate of the retail liquor store that receives the transfer.*

2. *A transfer of an original package of liquor between retail liquor stores which are not located within the same marketing area may occur only if:*

*(a) The wholesale dealers in the marketing areas where the retail liquor stores are located:*

*(1) Are affiliates;*

*(2) Consent, in writing, to the transfer; and*

*(3) Hold the franchises for the brands of liquor purchased in each marketing area involved in the transfer;*

(b) *The retail liquor store obtains a special permit for the transportation pursuant to subsection 4 of NRS 369.450; and*

(c) *The initial retail liquor store:*

(1) *Obtained the original package of liquor in compliance with the provisions of this chapter; and*

(2) *Is an affiliate of the retail liquor store that receives the transfer.*

3. *A transfer authorized by this section shall not be deemed a sale.*

4. *A retail liquor store that transfers or receives an original package of liquor as authorized by this section:*

(a) *Shall not be deemed to be engaged in business as a wholesale dealer based upon the transfer authorized by this section; and*

(b) *Shall not sell any original package of liquor that has been transferred to any other wholesale dealer or retail liquor store.*

5. *A wholesale dealer shall notify the retail liquor stores located in the marketing area of the wholesaler dealer of the boundaries of that marketing area.*

6. *As used in this section:*

(a) *"Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person.*

(b) *"Franchise" has the meaning ascribed to it in NRS 597.130.*

(c) *"Liquor" does not include beer.*

(d) *"Marketing area" has the meaning ascribed to it in NRS 597.136.*

(e) *"Retail liquor store" includes a facility that is owned or operated by a retailer and is used for the temporary storage and transfer of liquor pursuant to this section.*

Sec. 3. 1. *A wholesale dealer may bring an action in a court of competent jurisdiction against a retail liquor store and another wholesale dealer who knowingly transfer:*

(a) *An original package of liquor between marketing areas without the consent of the wholesale dealer as required by subsection 2 of section 2 of this act; or*

(b) *An original package of beer between retail liquor stores without complying with the provisions of chapter 369 of NRS,*

➡ *and is entitled to an award of \$1,000 for each violation and may recover the damages sustained by him, together with such costs of the action and reasonable attorney's fees as authorized by NRS 18.110.*

2. *The remedies provided in this section are independent of and supplemental to any other remedy or remedies available to the wholesale dealer in law or equity.*

Sec. 4. NRS 369.550 is hereby amended to read as follows:

369.550 1. Except as otherwise expressly provided in this chapter, any person violating any of the provisions of this chapter, *except section 2 of this act*, or knowingly violating any regulation of the Department made for the

enforcement of the provisions of this chapter shall be punished, upon conviction thereof, as for a misdemeanor.

2. Any person violating any provision of NRS 369.4865 is liable to the Department for a civil penalty of not more than \$1,000 for each violation. The civil penalty prescribed in this subsection is in addition to any criminal penalty or other remedy or penalty available for the same conduct.

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

Amend the title of the bill, second line, after "between" by inserting "certain".

Amend the summary of the bill to read as follows:

"SUMMARY—Revises provisions governing storage and transfer of liquor between certain retail liquor stores. (BDR 32-1408)".

Senator Tiffany moved the adoption of the amendment.

Remarks by Senator Tiffany.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Raggio moved that the Senate recess until 3:30 p.m.

Motion carried.

Senate in recess at 1:20 p.m.

#### SENATE IN SESSION

At 5:10 p.m.

President pro Tempore Amodei presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Mr. President pro Tempore:*

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 325, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

#### SECOND READING AND AMENDMENT

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 491.

Amend the bill as a whole by deleting sections 1 through 72 and adding new sections designated sections 1 through 101, following the enacting clause, to read as follows:

"Section 1. Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 35, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" means the Real Estate Administrator.*

Sec. 4. *"Association" has the meaning ascribed to it in NRS 116.011.*

Sec. 5. *"Certificate" means a certificate for the management of a common-interest community issued by the Division pursuant to this chapter.*

Sec. 6. *"Commission" means the Commission for Common-Interest Communities created by NRS 116.600.*

Sec. 7. *"Common-interest community" has the meaning ascribed to it in NRS 116.021.*

Sec. 8. *"Community manager" means a person who provides for or otherwise engages in the management of a common-interest community.*

Sec. 9. *"Division" means the Real Estate Division of the Department of Business and Industry.*

Sec. 10. *"Executive board" has the meaning ascribed to it in NRS 116.045.*

Sec. 11. *"Hearing panel" means a hearing panel appointed by the Commission pursuant to section 32 of this act.*

Sec. 12. *"Management of a common-interest community" means the physical, administrative or financial maintenance and management of a common-interest community, or the supervision of those activities, for a fee, commission or other valuable consideration.*

Sec. 13. *"Permit" means a permit to conduct a study of the reserves of an association pursuant to NRS 116.31152 issued by the Division pursuant to this chapter.*

Sec. 14. *"Reserve study specialist" means a person who conducts a study of the reserves of an association pursuant to NRS 116.31152.*

Sec. 15. 1. *The provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.*

2. *The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.*

3. *The Commission or the Administrator, with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.*

4. *The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.*

5. *When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the*



*next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.*

*6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.*

*7. The Division may publish or supply a reference manual or study guide for community managers and for reserve study specialists and may offer such documents for sale at a reasonable fee.*

*Sec. 16. 1. Except as otherwise provided in this section and within the limits of legislative appropriations, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.*

*2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.*

*3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to him by the Commission or the Division.*

*Sec. 17. The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:*

*1. The rulings or decisions upon all complaints filed with that district office.*

*2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.*

*3. Denials of applications made to that district office for examination or issuance of a certificate or permit.*

*Sec. 18. 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.*

*2. The complaint or other charging documents filed with the Commission to initiate disciplinary action and all documents and information considered by the Commission when determining whether to impose discipline are public records.*

*Sec. 19. The Commission and its members, each hearing panel and its members, the Administrator, the Division, and the experts, attorneys, investigators, consultants and other personnel of the Commission and the Division are immune from any civil liability for any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter.*

Sec. 20. *Any notice or other information that is required to be served upon the Commission pursuant to the provisions of this chapter may be delivered to the principal office of the Division.*

Sec. 21. 1. *The Administrator may adopt regulations which establish procedures for the Division to conduct business electronically pursuant to title 59 of NRS with persons who are regulated pursuant to this chapter and with any other persons with whom the Division conducts business. The regulations may include, without limitation, the establishment of fees to pay the costs of conducting business electronically with the Division.*

2. *In addition to the process authorized by NRS 719.280, if the Division is conducting business electronically with a person and a law requires a signature or record to be notarized, acknowledged, verified or made under oath, the Division may allow the person to substitute a declaration that complies with the provisions of NRS 53.045 to satisfy the legal requirement.*

3. *The Division may refuse to conduct business electronically with a person who has failed to pay money which the person owes to the Division or the Commission.*

Sec. 22. 1. *Except as otherwise provided in subsection 2, all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited into the Account for Common-Interest Communities created pursuant to NRS 116.630.*

2. *If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.*

3. *Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.*

Sec. 23. 1. *Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.*

2. *The Commission shall by regulation provide for the standards of practice for community managers who hold certificates.*

3. *The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the standards of practice adopted by the Commission.*

4. *In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.*

5. *In addition to any other remedy or penalty, the Commission may:*

*(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.*

*(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.*

*6. The provisions of this section do not apply to:*

*(a) A financial institution that is engaging in an activity permitted by law.*

*(b) An attorney who is licensed to practice in this State and who is acting in that capacity.*

*(c) A trustee with respect to the property of the trust.*

*(d) A receiver with respect to property subject to the receivership.*

*(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.*

*Sec. 24. 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:*

*(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.*

*(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.*

*(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.*

*(d) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.*

*(e) Must establish rules of practice and procedure for conducting disciplinary hearings.*

*2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.*

*Sec. 25. 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person holds a permit.*

*2. The Commission shall by regulation provide for the standards of practice for reserve study specialists who hold permits.*

*3. The Division may investigate any reserve study specialist who holds a permit to ensure that the reserve study specialist is complying with the standards of practice adopted by the Commission.*

*4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist who holds a permit has violated any provision of this chapter or any of the*

*standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.*

*5. In addition to any other remedy or penalty, the Commission may:*

*(a) Refuse to issue a permit to a person who has failed to pay money which the person owes to the Commission or the Division.*

*(b) Suspend, revoke or refuse to renew the permit of a person who has failed to pay money which the person owes to the Commission or the Division.*

*6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.*

*Sec. 26. 1. The Commission shall by regulation provide for the issuance by the Division of permits to reserve study specialists. The regulations:*

*(a) Must establish the qualifications for the issuance of such a permit, including, without limitation, the education and experience required to obtain such a permit.*

*(b) May require applicants to pass an examination in order to obtain a permit. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.*

*(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.*

*(d) Must establish the grounds for initiating disciplinary action against a person to whom a permit has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a permit and for the suspension or revocation of a permit.*

*(e) Must establish rules of practice and procedure for conducting disciplinary hearings.*

*2. The Division may collect a fee for the issuance of a permit in an amount not to exceed the administrative costs of issuing the permit.*

*Sec. 27. 1. An applicant for a certificate or permit shall submit to the Division:*

*(a) The social security number of the applicant; and*

*(b) The statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

*2. The Division shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for the issuance of the certificate or permit; or*

*(b) A separate form prescribed by the Division.*

3. *A certificate or permit may not be issued if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 28. 1. *If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to the holder of a certificate or permit, the Division shall deem the certificate or permit to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the certificate or permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate or permit has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Division shall reinstate a certificate or permit that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the certificate or permit that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 29. *The expiration or revocation of a certificate or permit by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a certificate or permit by the holder of the certificate or permit does not:*

1. *Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the holder of the certificate or permit as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or*

2. *Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the holder of the certificate or permit.*

Sec. 30. 1. *To carry out the purposes of this chapter, the Commission, or any member thereof acting on behalf of the Commission or acting on behalf of a hearing panel, may issue subpoenas to compel the attendance of witnesses and the production of books, records and other papers.*

2. If any person fails to comply with a subpoena issued by the Commission or any member thereof pursuant to this section within 20 days after the date of service of the subpoena, the Commission may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 20 days after the date of service of the order, and show cause why he has not complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Commission or any member thereof pursuant to this section, the court shall enter an order compelling compliance with the subpoena, and upon failure to obey the order the person must be dealt with as for contempt of court.

Sec. 31. 1. Each witness who appears by order of the Commission is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in a civil case, which must be paid by the party at whose request the witness is subpoenaed.

2. When a witness not otherwise required to attend is subpoenaed by the Commission, his fees and mileage must be paid by the Division.

Sec. 32. 1. The Commission may appoint one or more hearing panels. Each hearing panel must consist of one or more independent hearing officers.

2. The Commission may by regulation delegate to one or more hearing panels the power of the Commission to conduct hearings and other proceedings, determine violations, impose fines and penalties and take other disciplinary action authorized by the provisions of this chapter.

3. While acting under the authority of the Commission, a hearing panel and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the Commission and its members.

4. A final order of a hearing panel:

(a) May be appealed to the Commission if, not later than 20 days after the date that the final order is issued by the hearing panel, any party aggrieved by the final order files a written notice of appeal with the Commission.

(b) Must be reviewed and approved by the Commission if, not later than 40 days after the date that the final order is issued by the hearing panel, the Division, upon the direction of the Chairman of the Commission, provides written notice to all parties of the intention of the Commission to review the final order.

Sec. 33. The Commission or a hearing panel may conduct a hearing by means of an audio or video teleconference to one or more locations if the audio or video technology used at the hearing provides the persons present at each location with the ability to hear and communicate with the persons present at each other location.

Sec. 34. 1. *In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:*

*(a) Engages or offers to engage in any activity for which a certificate or permit is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or permit or has not been given the required authorization; or*

*(b) Assists or offers to assist another person to commit a violation described in paragraph (a).*

2. *If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.*

3. *In determining the appropriate amount of the administrative fine, the Commission shall consider:*

*(a) The severity of the violation and the degree of any harm that the violation caused to other persons;*

*(b) The nature and amount of any gain or economic benefit that the person derived from the violation;*

*(c) The person's history or record of other violations; and*

*(d) Any other facts or circumstances that the Commission deems to be relevant.*

4. *Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.*

5. *The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.*

6. *The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:*

*(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and*

*(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.*

Sec. 35. 1. *Whenever the Division believes from evidence satisfactory to it that any person has violated or is about to violate a provision of this chapter, or a provision of any regulation, order, decision, demand or requirement of the Division or the Commission, it may bring an action, in the name of the Division, in the district court of the State of Nevada in and for the county where the person resides or, if the person resides outside the State of Nevada, in any court of competent jurisdiction within or outside the State of Nevada, against the person to enjoin him from engaging in or continuing the violation, or from doing any act or acts in furtherance of the violation.*

2. *If the action is brought in a district court of the State of Nevada, an order or judgment may be entered, when proper, awarding a temporary restraining order, preliminary injunction or final injunction. A preliminary*

*injunction or temporary restraining order must not be granted without at least 5 days' notice to the opposite party.*

Sec. 36. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 37 to 47, inclusive, of this act.

Sec. 37. *"Major component of the common elements" means any component of the common elements, including, without limitation, any amenity, improvement, furnishing, fixture, finish, system or equipment, that may, within 30 years after its original installation, require repair, replacement or restoration in excess of routine annual maintenance which is included in the annual operating budget of an association.*

Sec. 38. *"Townhouse" means a single-family dwelling unit that:*

- 1. Extends from foundation to roof with open space on at least two sides;*
- 2. Is not a unit within a common-interest community; and*
- 3. Is attached to one or more other similarly constructed single-family dwelling units which also are not units within a common-interest community and which are legally separated from each other by property lines.*

Sec. 39. *1. If a person knows or, in light of all the surrounding facts and circumstances, reasonably should know that real estate is part of a common-interest community, the person shall not, with the intent to defraud or deceive:*

*(a) Advertise or represent the real estate as a townhouse or with any description which would create or tend to create the impression to members of the general public that the real estate is a townhouse; or*

*(b) Record the real estate as a townhouse or with any description which would create or tend to create the impression to members of the general public that the real estate is a townhouse.*

*2. A person who violates any provision of this section is guilty of a misdemeanor.*

*3. The provisions of this section do not apply to a county recorder while acting within the scope of his official duties or any employees, agents or contractors of a county recorder while acting within the scope of their employment, agency or contract.*

Sec. 40. *1. Except as otherwise limited by subsection 4 of NRS 116.2117, if:*

*(a) To approve an amendment to the declaration pursuant to NRS 116.2117, the declaration requires:*

*(1) In a single-class voting structure, more than a majority of the total number of votes allocated to the single class to be cast in favor of the amendment; or*

*(2) In a multiclass voting structure, more than a majority of the total number of votes allocated to one or more of the multiple classes to be cast in favor of the amendment; and*

*(b) An amendment fails to receive the number of votes required by the declaration to be approved but:*



*(1) In a single-class voting structure, receives a majority of the total number of votes allocated to the single class; or*

*(2) In a multiclass voting structure, receives in each of the multiple classes a majority of the total number of votes allocated to that class,*

*↳ the association or any unit's owner may file a petition with the district court in any county in which any portion of the common-interest community is located asking for an order waiving the supermajority requirements of the declaration and confirming the amendment as validly approved.*

*2. If the association or any unit's owner files a petition pursuant to subsection 1, the petition:*

*(a) Must contain sufficient information specifying:*

*(1) The actions that have been taken to obtain the number of votes required to approve the amendment under the declaration and whether those actions have conformed with the procedures set forth in the declaration;*

*(2) The amount of time that has been allowed for the units' owners to vote upon the amendment;*

*(3) The number and percentage of affirmative votes required in each voting class to approve the amendment under the declaration;*

*(4) The number and percentage of affirmative and negative votes actually received in each voting class with regard to the amendment; and*

*(5) Any other matters the petitioner considers relevant to the court's determination; and*

*(b) Must include, as exhibits to the petition, copies of:*

*(1) The governing documents;*

*(2) The complete text of the amendment and a statement explaining the need for the amendment and its purposes and objectives;*

*(3) All notices and materials used in the effort to persuade the units' owners to approve the amendment; and*

*(4) Any other documents the petitioner considers relevant to the court's determination.*

*3. Upon receiving the petition, the court shall:*

*(a) Set the matter for hearing; and*

*(b) Issue an ex parte order setting forth the manner in which the petitioner must give written notice of the hearing to all the units' owners in the association.*

*4. The court may grant the petition if it finds that the petitioner has presented evidence establishing that:*

*(a) The petitioner has given at least 15 days' written notice of the hearing to:*

*(1) All the units' owners in the association;*

*(2) Each city, if any, and each county in which any portion of the common-interest community is located; and*

*(3) All other persons or entities that are entitled to notice under the declaration;*

(b) *The voting process regarding the amendment was conducted in accordance with all applicable provisions of the governing documents and state law;*

(c) *A reasonably diligent effort was made to allow all eligible units' owners and, if required by the governing documents, all lenders to vote on the amendment;*

(d) *The amendment:*

(1) *In a single-class voting structure, received a majority of the total number of votes allocated to the single class; or*

(2) *In a multiclass voting structure, received in each of the multiple classes a majority of the total number of votes allocated to that class; and*

(e) *The amendment is reasonable.*

5. *If the court grants the petition, the court shall enter an order waiving the supermajority requirements of the declaration and confirming the amendment as validly approved.*

6. *An amendment confirmed by a final court order pursuant to this section is not effective until a certified copy of the amendment and the final court order have been recorded in each county in which any portion of the common-interest community is located. The amendment must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association, and the final court order must be recorded along with the amendment.*

7. *After the amendment and the final court order have been recorded pursuant to this section, the declaration, as amended, has the same force and effect as if the amendment had been approved in compliance with every requirement imposed by the governing documents.*

8. *Not later than 30 days after the date on which the amendment and the final court order are recorded pursuant to this section, the association shall mail to all the units' owners in the association:*

(a) *A copy of the amendment and the final court order; and*

(b) *A statement explaining that the amendment and the final court order have been recorded and that the declaration has been amended pursuant to this section.*

Sec. 41. 1. *The executive board shall not and the governing documents must not prohibit a unit's owner from installing or maintaining drought tolerant landscaping within such physical portion of the common-interest community as that owner has a right to occupy and use exclusively, except that:*

(a) *Before installing drought tolerant landscaping, the unit's owner must submit a detailed description or plans for the drought tolerant landscaping for architectural review and approval in accordance with the procedures, if any, set forth in the governing documents of the association; and*

*(b) The drought tolerant landscaping must be selected or designed to the maximum extent practicable to be compatible with the style of the common-interest community.*

*2. Installation of drought tolerant landscaping within any common element or conversion of traditional landscaping or cultivated vegetation, such as turf grass, to drought tolerant landscaping within any common element shall not be deemed to be a change of use of the common element unless:*

*(a) The common element has been designated as a park, open play space or golf course on a recorded plat map; or*

*(b) The traditional landscaping or cultivated vegetation is required by a governing body under the terms of any applicable zoning ordinance, permit or approval or as a condition of approval of any final subdivision map.*

*3. As used in this section, "drought tolerant landscaping" means landscaping which conserves water, protects the environment and is adaptable to local conditions. The term includes, without limitation, the use of mulches such as decorative rock and artificial turf.*

*Sec. 42. 1. Except as otherwise provided in the declaration, an association may not require a unit's owner to secure or obtain any approval from the association in order to rent or lease his unit.*

*2. The provisions of this section do not prohibit an association from enforcing any provisions which govern the renting or leasing of units and which are contained in this chapter or in any other applicable federal, state or local laws or regulations.*

*Sec. 43. 1. The Commission shall adopt regulations prescribing the requirements for the preparation and presentation of financial statements of an association pursuant to this chapter.*

*2. The regulations adopted by the Commission must include, without limitation:*

*(a) The qualifications necessary for a person to prepare and present financial statements of an association; and*

*(b) The standards and format to be followed in preparing and presenting financial statements of an association.*

*Sec. 44. 1. Except as otherwise provided in subsection 2, the executive board shall:*

*(a) If the annual budget of the association is less than \$75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.*

*(b) If the annual budget of the association is \$75,000 or more but less than \$150,000, cause the financial statement of the association to be:*

*(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and*

*(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.*

(c) *If the annual budget of the association is \$150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.*

2. *For any fiscal year for which an audit of the financial statement of the association is not conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days after the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.*

3. *The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:*

(a) *The qualifications necessary for a person to audit or review financial statements of an association; and*

(b) *The standards and format to be followed in auditing or reviewing financial statements of an association.*

Sec. 45. *In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of motor vehicles while those motor vehicle are in motion and traveling upon any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.*

Sec. 46. 1. *The executive board shall not and the governing documents must not prohibit a unit's owner or an occupant of a unit from exhibiting a political sign within such physical portion of the common-interest community as that owner or occupant has a right to occupy and use exclusively if:*

(a) *The owner or occupant exhibits not more than one political sign;*

(b) *The political sign is not larger than 24 inches by 36 inches; and*

(c) *The political sign is exhibited only during the following periods:*

(1) *If the political sign relates to a primary election or general election, or both, the period beginning 15 days before the first day of early voting in the primary election and ending 7 days after the general election, except that if the political sign relates only to the primary election, the period ends 7 days after the primary election.*

(2) *If the political sign relates to a special election, the period beginning 15 days before the first day of early voting in the special election or, if there is no early voting in the special election, 15 days before the special election and ending 7 days after the special election.*

2. *The provisions of this section establish the minimum rights of a unit's owner or an occupant of a unit to exhibit a political sign. The provisions of this section do not preempt any provisions of the governing documents that provide greater rights and do not require the governing documents or the executive board to impose any restrictions on the exhibition of political signs other than those established by other provisions of law.*

3. *As used in this section, "political sign" means a sign that expresses support for or opposition to a candidate, political party or ballot question.*

Sec. 47. 1. *The association shall provide written notice to the owner of each unit of a meeting at which the commencement of a civil action is to be considered or action is to be taken on such an assessment at least 21 calendar days before the meeting. Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:*

*(a) To enforce the payment of an assessment;*  
*(b) To enforce the declaration, bylaws or rules of the association;*  
*(c) To enforce a contract with a vendor;*  
*(d) To proceed with a counterclaim; or*  
*(e) To protect the health, safety and welfare of the members of the association. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes or the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.*

2. *At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all the units' owners that includes:*

*(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;*  
*(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and*  
*(c) All disclosures that are required to be made upon the sale of the property.*

3. *No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.*

4. *If any civil action in which the association is a party is settled, the executive board shall disclose the terms and conditions of the settlement at the next regularly scheduled meeting of the executive board after the settlement has been reached. The executive board may not approve a settlement which contains any terms and conditions that would prevent the executive board from complying with the provisions of this subsection.*

Sec. 48. NRS 116.003 is hereby amended to read as follows:

116.003 As used in this chapter and in the declaration and bylaws of an association, unless the context otherwise requires, the words and terms defined in NRS 116.005 to 116.095, inclusive, *and sections 37 and 38 of this act* have the meanings ascribed to them in those sections.

Sec. 49. NRS 116.013 is hereby amended to read as follows:

116.013 "Certificate" means a certificate for the management of a common-interest community issued by the Division ~~[ ] pursuant to sections 2 to 35, inclusive, of this act.~~

Sec. 50. NRS 116.047 is hereby amended to read as follows:

NRS 116.047 "Financial statement" means a ~~[balance sheet showing profit and loss of an association and the funds held in reserve by the association.]~~ *financial statement of an association that is prepared and presented in accordance with the requirements established by the Commission pursuant to section 43 of this act.*

Sec. 51. NRS 116.049 is hereby amended to read as follows:

116.049 "Governing documents" means ~~[the declaration.]~~

1. *The declaration for the common-interest community;*
2. *The articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents that are used to organize the association for the common-interest community;*
3. *The bylaws and rules of ~~[an]~~ the association ; and ~~[any]~~*
4. *Any other documents that govern the operation of ~~[a]~~ the common-interest community or the association.*

Sec. 52. NRS 116.1106 is hereby amended to read as follows:

116.1106 1. A building code may not impose any requirement upon any structure in a common-interest community which it would not impose upon a physically identical development under a different form of ownership.

2. In condominiums and cooperatives, no zoning, subdivision or other law, ordinance or regulation governing the use of real estate may prohibit the condominium or cooperative as a form of ownership or impose any requirement upon a condominium or cooperative which it would not impose upon a physically identical development under a different form of ownership.

3. Except as otherwise provided in subsections 1 and 2, the provisions of this chapter do not invalidate or modify any provision of any building code or zoning, subdivision or other law, ordinance, rule or regulation governing the use of real estate.

4. *The provisions of this section do not prohibit a local government from imposing requirements on townhouses that are different from the requirements that it imposes on structures in common-interest communities.*

Sec. 53. NRS 116.11085 is hereby amended to read as follows:

116.11085 If a matter governed by this chapter is also governed by chapter 78 ~~[or]~~ , 81, 82 , 86, 87, 88 or 88A of NRS ~~[or NRS 81.010 to 81.160, inclusive.]~~ and there is a conflict between the provisions of this

chapter and the provisions of ~~[chapter 78 or 82 of NRS or NRS 81.010 to 81.160, inclusive,]~~ those other chapters, the provisions of this chapter prevail.

Sec. 54. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) ~~[Associations created for the limited purpose of maintaining:~~

~~(1) The landscape of the common elements of a common interest community;~~

~~(2) Facilities for flood control; or~~

~~(3) Except as otherwise provided in NRS 116.31075,] A limited-purpose association, except that a limited-purpose association:~~

~~(1) Shall pay the fees required pursuant to NRS 116.31155;~~

~~(2) Shall register with the Ombudsman pursuant to NRS 116.31158;~~

~~(3) Shall comply with the provisions set forth in NRS 116.31038, 116.31083 and 116.31152;~~

~~(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and~~

~~(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is a rural agricultural residential common-interest community.~~

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners ; ~~of the association;~~

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation ~~[, the]~~ :

(a) *The criteria for determining whether an association , a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter ~~[,]~~ ; and*

(b) *The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.*

6. *As used in this section, "limited-purpose association" means an association that:*

(a) *Is created for the limited purpose of maintaining:*

(1) *The landscape of the common elements of a common-interest community;*

(2) *Facilities for flood control; or*

(3) *A rural agricultural residential common-interest community; and*

(b) *Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is a rural agricultural residential common-interest community.*

Sec. 55. NRS 116.2117 is hereby amended to read as follows:

116.2117 1. Except as otherwise provided in section 40 of this act, and except in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.



2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.

4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.

5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Sec. 56. NRS 116.3101 is hereby amended to read as follows:

116.3101 1. A unit-owners' association must be organized no later than the date the first unit in the common-interest community is conveyed.

2. The membership of the association at all times consists exclusively of all units' owners or, following termination of the common-interest community, of all owners of former units entitled to distributions of proceeds under NRS 116.2118, 116.21183 and 116.21185, or their heirs, successors or assigns.

3. The association must:

(a) Be organized as a profit or nonprofit corporation, *association*, *limited-liability company*, trust or partnership;

(b) Include in its articles of incorporation, *articles of association*, *articles of organization*, certificate of registration ~~for certificates~~, *certificate of limited partnership*, *certificate of trust or other documents of organization*, or any ~~certificate of~~ amendment thereof, that the purpose of the corporation, *association*, *limited-liability company*, *trust or partnership* is to operate as an association pursuant to this chapter;

(c) Contain in its name the words "*common-interest community*," "*community association*," "*master association*," "*homeowners' association*" or "*unit-owners' association*"; and

(d) Comply with the provisions of chapters 78, 81, 82, 86, 87, ~~and~~ 88 and 88A of NRS when filing with the Secretary of State its articles of incorporation, ~~certificates~~ *articles of association*, *articles of organization*, *certificate of registration* ~~for certificates~~, *certificate of limited partnership*, *certificate of trust or other documents of organization*, or any ~~certificate of~~ amendment thereof. ~~with the Secretary of State.~~

Sec. 57. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may ~~{} do any or all of the following:~~

- (a) Adopt and amend bylaws, rules and regulations . ~~{}~~
- (b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from *the* units' owners . ~~{}~~
- (c) Hire and discharge managing agents and other employees, agents and independent contractors . ~~{}~~
- (d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community . ~~{}~~
- (e) Make contracts and incur liabilities . ~~{}~~
- (f) Regulate the use, maintenance, repair, replacement and modification of common elements . ~~{}~~
- (g) Cause additional improvements to be made as a part of the common elements . ~~{}~~
- (h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:
  - (1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and
  - (2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112 . ~~{}~~
- (i) Grant easements, leases, licenses and concessions through or over the common elements . ~~{}~~
- (j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to *the* units' owners . ~~{}~~
- (k) Impose charges for late payment of assessments . ~~{}~~
- (l) Impose construction penalties when authorized pursuant to NRS 116.310305 . ~~{}~~
- (m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031 . ~~{}~~
- (n) Impose reasonable charges for the preparation and recordation of amendments to the declaration, the information required by NRS 116.4109 or statements of unpaid assessments . ~~{}~~
- (o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance . ~~{}~~
- (p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides . ~~{}~~
- (q) Exercise any other powers conferred by the declaration or bylaws . ~~{}~~

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association. ~~{5}~~

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, *as authorized pursuant to NRS 487.038 ~~{5 and}~~, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:*

*(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or*

*(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the common-interest community.*

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 58. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries. The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

~~{3. Within 30 days after adoption of any proposed budget for the common interest community, the executive board shall provide a summary of the budget to all the units' owners, and shall set a date for a meeting of the units' owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the summary. Unless at that meeting a majority of all units' owners or any larger vote specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must~~

~~be continued until such time as the unit's owners ratify a subsequent budget proposed by the executive board.~~

Sec. 59. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board ~~of the association~~ may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. ~~The~~ *If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation ~~and~~ and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of ~~[\$500,] \$1,000,~~ whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.*

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be

imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

- (a) Pays the fine;
- (b) Executes a written waiver of the right to the hearing; or
- (c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed \$20, if the outstanding balance is less than \$200.

(2) May not exceed \$50, if the outstanding balance is \$200 or more, but is less than \$500.

(3) May not exceed \$100, if the outstanding balance is \$500 or more, but is less than \$1,000.

(4) May not exceed \$250, if the outstanding balance is \$1,000 or more, but is less than \$5,000.

(5) May not exceed \$500, if the outstanding balance is \$5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

9. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 60. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. *Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners.* The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must ~~make~~ :

(a) *Make* a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board ~~[-]~~ ; and

*(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.*

➔ The candidate must make ~~[the disclosure]~~ all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board ~~of an association~~ or an officer of ~~that~~ the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 61. NRS 116.31036 is hereby amended to read as follows:

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, ~~[the units' owners, by a two-thirds vote of all persons entitled to vote at any meeting of the units' owners at which a quorum is present, may remove]~~ any member of the executive board, ~~[with or without cause,]~~ other than a member appointed by the declarant ~~[-]~~, *may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:*

*(a) At least 35 percent of the total number of voting members of the association; and*

*(b) At least a majority of all votes cast in that removal election.*

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the



common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

Sec. 62. NRS 116.31038 is hereby amended to read as follows:

116.31038 Within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the ~~[association's]~~ articles of incorporation ~~[if the association is incorporated,]~~, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and *audited* financial statements *for each fiscal year and any ancillary period* from the date of inception of the association ~~[received money]~~ to the date the period of the declarant's control ends. The financial statements must fairly and accurately

report the association's financial ~~[condition prepared in accordance with generally accepted accounting principles.] position.~~

3. A complete study of the reserves of the association, conducted by a person ~~[qualified by training and experience]~~ *who holds a permit to conduct such a study* ~~[— issued pursuant to sections 2 to 35, inclusive, of this act.~~ At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 63. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners ~~[of an association]~~ must be held at least once each year. If the governing documents ~~[of a common interest community]~~ do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1. Special meetings of the units' owners ~~[of an association]~~ may be called by the president, a majority of the executive board or by units' owners ~~[having]~~ *constituting at least 10 percent, or any lower percentage specified in the bylaws, of the ~~[votes in]~~ total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board must set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board must set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.*

2. Not less than ~~[10 nor]~~ *15 days or more than 60 days* in advance of any meeting of the units' owners, ~~[of an association]~~ the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

3. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

4. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

5. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

6. Except as otherwise provided in subsection 7, the minutes of each meeting of the units' owners must include:

- (a) The date, time and place of the meeting;
- (b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

7. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.

8. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

9. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before

recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

10. *The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.*

11. As used in this section, "emergency" means any occurrence or combination of occurrences that:

- (a) Could not have been reasonably foreseen;
- (b) Affects the health, welfare and safety of the ~~[units' owners]~~ residents of the ~~[association]~~ common-interest community;
- (c) Requires the immediate attention of, and possible action by, the executive board; and
- (d) Makes it impracticable to comply with the provisions of subsection 2 or 3.

Sec. 64. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board ~~[of an association]~~ must be held at least once every 90 days.

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

- (a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;
- (b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or
- (c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board ~~[of an association]~~ must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. ~~[of the association]~~ The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board ~~[of an association]~~ must comply with the provisions of subsection 3 of NRS 116.3108. The period required to be devoted to comments by *the* units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review *, at a minimum, the following financial information* at one of its meetings:

(a) A current ~~[reconciliation of the operating account]~~ *year-to-date financial statement* of the association;

(b) *A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;*

(c) *A current reconciliation of the operating account of the association;*

(d) A current reconciliation of the reserve account of the association;

~~[(e) The actual revenues and expenses for the reserve account, compared to the budget for that account for the current year;~~

~~(d)]~~ (e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained;

~~[(e) An income and expense statement, prepared on at least a quarterly basis, for the operating and reserve accounts of the association;]~~ and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the ~~[units' owners]~~ *residents* of the ~~[association]~~ *common-interest community*;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 65. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners ~~[of the association]~~ or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the units' owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that ~~the~~ *an open* hearing be conducted by the executive board. ~~at an open meeting. The~~ *If the* person who may be sanctioned for the alleged violation ~~is~~ *requests in writing that an open hearing be conducted, the person:*

(a) *Is* entitled to attend ~~the hearing and testify concerning the alleged violation, but the person may be excluded by the executive board from any other portion~~ *all portions* of the hearing ~~related to the alleged violation,~~ including, without limitation, *the presentation of evidence and the testimony of witnesses; and*

(b) *Is not entitled to attend* the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 66. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and the money for the reserve required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including a reserve, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish an adequate reserve, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserve may be used only for those purposes, including, without limitation, repairing, replacing and



restoring roofs, roads and sidewalks, and must not be used for daily maintenance.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to the owner of each unit of a meeting at which an assessment for a capital improvement ~~for the commencement of a civil action is to be considered~~ or action is to be taken on such an assessment at least 21 calendar days before the meeting. ~~Except as otherwise provided in this subsection, the association may commence a civil action only upon a vote or written agreement of the owners of units to which at least a majority of the votes of the members of the association are allocated. The provisions of this subsection do not apply to a civil action that is commenced:~~

~~(a) To enforce the payment of an assessment;~~

~~(b) To enforce the declaration, bylaws or rules of the association;~~

~~(c) To proceed with a counterclaim; or~~

~~(d) To protect the health, safety and welfare of the members of the association. If a civil action is commenced pursuant to this paragraph without the required vote or agreement, the action must be ratified within 90 days after the commencement of the action by a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated. If the association, after making a good faith effort, cannot obtain the required vote or agreement to commence or ratify~~

~~such a civil action, the association may thereafter seek to dismiss the action without prejudice for that reason only if a vote or written agreement of the owners of the units to which at least a majority of votes of the members of the association are allocated was obtained at the time the approval to commence or ratify the action was sought.~~

~~10. At least 10 days before an association commences or seeks to ratify the commencement of a civil action, the association shall provide a written statement to all units' owners that includes:~~

~~(a) A reasonable estimate of the costs of the civil action, including reasonable attorney's fees;~~

~~(b) An explanation of the potential benefits of the civil action and the potential adverse consequences if the association does not commence the action or if the outcome of the action is not favorable to the association; and~~

~~(c) All disclosures that are required to be made upon the sale of the property.~~

~~11. No person other than a unit's owner may request the dismissal of a civil action commenced by the association on the ground that the association failed to comply with any provision of this section.]~~

Sec. 67. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board ~~[of an association]~~ shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to maintain the reserve required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace or restore any major component of the common elements or to provide adequate reserves for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties; and

(b) Copies of the budgets will be provided upon request.

3. *Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.*

Sec. 68. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board ~~[of an association]~~ shall:

(a) ~~[Cause]~~ *At least once every 5 years, cause to be conducted* ~~[, at least once every 5 years,]~~ a study of the reserves required to repair, replace and restore the major components of the common elements;

(b) ~~[Review]~~ *At least annually, review the results of that study* ~~[at least annually]~~ to determine if those reserves are sufficient; and

(c) ~~[Make]~~ *At least annually, make any adjustments it deems necessary to maintain the required reserves.*

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~[is qualified by training and experience to conduct such a study, including, without limitation, a member of the executive board, a unit's owner or a community manager who is so qualified.]~~ *holds a permit issued pursuant to sections 2 to 35, inclusive, of this act.*

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component *of the common elements* identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component *of the common elements* identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be required to cover the cost of repairing, replacement or restoration of the major components *of the common elements* identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study.

~~{3. The results}~~

4. A summary of the study of the reserves required by subsection 1 must be submitted to the ~~{Commission}~~ Division not later than 45 days after the date that the executive board ~~{of the association}~~ adopts the results of the study.

~~{4. The Commission shall adopt by regulation the qualifications required for conducting the study of the reserves required by subsection 1.}~~

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 69. NRS 116.31155 is hereby amended to read as follows:

116.31155 1. ~~{An}~~ Except as otherwise provided in subsection 2, an association shall:

(a) If the association is required to pay the fee imposed by NRS 78.150, 82.193 , ~~{or}~~ 86.263, 87.531 or 88.591, pay to the Administrator a fee established by regulation of the Administrator for every unit in the association used for residential use.

(b) If the association is organized as a trust or partnership, *or as any other authorized business entity*, pay to the Administrator a fee established by regulation of the Administrator for each unit in the association.

2. *If an association is subject to the governing documents of a master association, the master association shall pay the fees required pursuant to this section for each unit in the association that is subject to the governing documents of the master association, unless the governing documents of the master association provide otherwise. The provisions of this subsection do not relieve any association that is subject to the governing documents of a master association from its ultimate responsibility to pay the fees required pursuant to this section to the Administrator if they are not paid by the master association.*

3. The fees required to be paid pursuant to this section must be:

(a) Paid at such times as are established by the Division.

(b) Deposited with the State Treasurer for credit to the Account for Common-Interest Communities created by NRS 116.630.

(c) Established on the basis of the actual costs of administering the Office of the Ombudsman and the Commission and not on a basis which includes any subsidy beyond those actual costs. In no event may the fees required to be paid pursuant to this section exceed \$3 per unit.

~~{3. The Administrator may by regulation establish}~~

4. *The Division shall impose an administrative penalty ~~{to be imposed}~~ against an association or master association that violates the provisions of this section by failing to pay the fees owed by the association or master association within the times established by the Division. The administrative penalty that is imposed for each violation ~~{may not exceed}~~ must equal 10 percent of the amount of the fees owed by the association or master association or \$500, whichever amount is less.*

~~{4.} The amount of the unpaid fees owed by the association or master association bears interest at the rate set forth in NRS 99.040 from the date the fees are due until the date the fees are paid in full.~~

5. A unit's owner may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to ~~{a} both an association and a master association . {and to an association organized pursuant to NRS 116.3101.}~~

~~5.} 6. An association that is subject to the governing documents of a master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by the master association.~~

7. *A master association may not be required to pay any portion of the fees or any administrative penalties or interest required to be paid pursuant to this section to the extent they have already been paid by an association that is subject to the governing documents of the master association.*

8. Upon the payment of the fees and any administrative penalties and interest required by this section, the Administrator shall provide to the association or master association evidence that it paid the fees and the administrative penalties and interest in compliance with this section.

Sec. 70. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest, at his address if known and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of

the unit against which the lien is imposed and the name of the record owner of the unit . ~~[ ]~~

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien ~~[, which contains]~~ *which must contain* the same information as the notice of delinquent assessment ~~[, but]~~ *and which must also* ~~[describe]~~ *comply with the following:*

(1) *Describe* the deficiency in payment . ~~[and]~~

(2) *State* the name and address of the person authorized by the association to enforce the lien by sale . ~~[and,]~~

(3) *Contain, in 14-point bold type, the following warning:*

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS DISPUTED!**

(c) The unit's owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following ~~[the later of:]~~ :

(a) The day on which the notice of default is recorded; ~~[or]~~

(b) The day on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address, if known, and at the address of the unit ~~[ ]~~ ; *or*

(c) *The day on which a copy of the notice of default is mailed by certified mail to the Ombudsman,*

➡ *whichever occurs last.*

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation ~~[threatens]~~ *poses an imminent threat of causing a substantial adverse effect on* the health, safety or welfare of the residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

Sec. 71. NRS 116.31163 is hereby amended to read as follows:

116.31163 The association or other person conducting the sale shall also mail, within 10 days after the notice of default and election to sell is recorded, a copy of the notice by first-class mail to:

1. Each person who has requested notice pursuant to NRS 107.090 or 116.31168;

2. Any holder of a recorded security interest encumbering the unit's owner's interest who has notified the association, 30 days before the recordation of the notice of default, of the existence of the security interest; and

3. A purchaser of the unit, if the unit's owner has notified the association, 30 days before the recordation of the notice, that the unit is the subject of a contract of sale and the association has been requested to furnish the certificate required by ~~subsection 2 of~~ NRS 116.4109.

Sec. 72. NRS 116.311635 is hereby amended to read as follows:

116.311635 The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

1. Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that a copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address, if known, and to the address of the unit.

2. Mail, on or before the date of first publication or posting, a copy of the notice by first-class mail to:

(a) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

(b) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(c) The Ombudsman.

3. *A notice must be served:*

(a) *By personally delivering, in the presence of a witness, a copy of the notice to an occupant of the unit who is of suitable age and who is the unit's owner or a lessee or other permanent resident of the unit;*

(b) *If such an occupant is absent from the unit, by leaving a copy with a person of suitable age and discretion at the unit and mailing a copy to such an occupant at the unit; or*

(c) *If such an occupant of the unit cannot otherwise be found, by posting a copy of the notice in a conspicuous place on the unit and mailing a copy to the occupant at the unit.*

4. *The notice served pursuant to subsection 3 must include:*

(a) *The amount necessary to satisfy the lien as of the date of the proposed sale; and*

(b) *The following warning in 14-point bold type:*

**WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN**

*DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and contact person at the association). IF YOU NEED ASSISTANCE, PLEASE CALL (name and contact information for the Ombudsman's Office) IMMEDIATELY.*

5. *Proof of service of any notice required pursuant to this section must consist of:*

*(a) A statement, signed by the occupant and a witness, acknowledging that the occupant received the notice on a specified date;*

*(b) A certificate of mailing issued by the United States Postal Service; or*

*(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.*

Sec. 73. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. The sale must be conducted in the county in which the common-interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.

2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.

3. After the sale, the person conducting the sale shall ~~make,~~ :

*(a) Make, execute and, after payment is made, deliver to the purchaser, or his successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit* ~~[-and shall apply]~~ ;

*(b) Deliver a conformed copy of the deed to the Ombudsman within 10 days after the sale; and*

*(c) Apply the proceeds of the sale for the following purposes in the following order:*

~~[(a)]~~ (1) The reasonable expenses of sale;

~~[(b)]~~ (2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;



~~[(e)]~~ (3) Satisfaction of the association's lien;

~~[(d)]~~ (4) Satisfaction in the order of priority of any subordinate claim of record; and

~~[(e)]~~ (5) Remittance of any excess to the unit's owner.

Sec. 74. NRS 116.31168 is hereby amended to read as follows:

116.31168 1. The provisions of NRS 107.090 apply to the foreclosure of an association's lien as if a deed of trust were being foreclosed. The request must identify the lien by stating the names of the unit's owner and the common-interest community.

2. An association may, after recording a notice of default and election to sell, waive the default and withdraw the notice or any proceeding to foreclose. The association is thereupon restored to its former position and has the same rights as though the notice had not been recorded. *The association shall deliver to the Ombudsman, within 10 days after recording a notice of default, a conformed copy of any recorded instrument rescinding the notice of default.*

Sec. 75. NRS 116.4103 is hereby amended to read as follows:

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.

(e) A current *year-to-date* financial statement, *including the most recent audited or reviewed financial statement*, and *the* projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as a reserve for repairs, replacement and restoration ~~[-]~~ *pursuant to NRS 116.3115*; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as a reserve pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 76. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner *or his authorized agent* shall furnish to a purchaser : ~~{before an offer to purchase a unit becomes binding on the purchaser.}~~

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) ~~{The}~~ *A copy of the current operating budget of the association and ~~{a}~~ current year-to-date financial statement for the association, which must include a summary of the ~~{financial components of the study of the}~~ reserves of the association required by NRS 116.31152 ~~{,}~~ and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and*

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

2. *The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the*

*documents described in subsection 1. If the purchaser elects to cancel a contract pursuant to this subsection, he may hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. The purchaser is not entitled to cancel the contract if the purchaser has accepted a conveyance of the unit.*

3. The association, within 10 days after receipt of a written request by the unit's owner or his authorized agent, shall furnish ~~a certificate containing the~~ :

(a) *Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and*

(b) *A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) subsection 1. ~~A unit's owner providing a~~*

4. *If an association furnishes the documents and certificate pursuant to subsection ~~1 is not~~ 3, the unit's owner or his authorized agent:*

(a) *Shall provide the documents and certificate to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.*

~~{3-}~~ (b) *The association may charge the unit's owner a reasonable fee to cover the cost of preparing the documents and certificate. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section. The association may not charge in excess of 25 cents per page for copies of any of the documents or the certificate.*

5. *The Commission shall adopt regulations establishing the maximum amount of the fee an association may charge for the preparation of the documents and certificate pursuant to this section.*

6. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by ~~{subsection 2-}~~ this section, the seller is not liable for the delinquent assessment.

~~{4-}~~ 7. Upon the request of a unit's owner, a purchaser to whom the unit's owner has provided ~~{a}~~ the documents and certificate pursuant to ~~{subsection 1-}~~ this section, or an authorized agent of the unit's owner or the purchaser, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the

common-interest community is situated or, if it is situated in more than one county, within one of those counties.

Sec. 77. NRS 116.41095 is hereby amended to read as follows:

116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:

BEFORE YOU PURCHASE PROPERTY IN A  
COMMON-INTEREST COMMUNITY  
DID YOU KNOW . . .

1. *YOU GENERALLY HAVE 5 DAYS TO TERMINATE THE  
PURCHASE AGREEMENT?*

*If you received a public offering statement, you may give written notice by mail or hand delivery cancelling the purchase agreement until midnight of the fifth calendar day following the date you signed the purchase agreement, unless you have personally inspected the unit.*

*If you did not receive a public offering statement but received documents pertaining to a homeowner's association or community association, you may give written notice by mail or hand delivery cancelling the purchase agreement until midnight of the fifth calendar day following the date you received the documents.*

2. *YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN  
USE YOUR PROPERTY?*

These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions (C, C & R's) . ~~[that should be provided for your review before making your purchase.]~~ The C, C & R's become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The C, C & R's, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by C, C & R's, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the C, C & R's and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.

~~{2.}~~ 3. *YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR  
AS LONG AS YOU OWN YOUR PROPERTY?*

As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowner's association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowner's association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have

the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components *of the common elements* of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to maintain adequate reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.

~~{3-}~~ 4. IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?

If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.

~~{4-}~~ 5. YOU MAY BECOME A MEMBER OF A HOMEOWNER'S ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?

Many common-interest communities have a homeowner's association. In a new development, the association will usually be controlled by the developer until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional managers to carry out these responsibilities.

Homeowner's associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the C, C & R's and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by

the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If persons controlling the association or its management are not complying with state laws or the governing documents, your remedy is typically to seek to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim. ~~{There is no government agency in this State that investigates or intervenes to resolve disputes in homeowner's associations.~~

~~5.}~~ 6. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE BUYERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?

The law requires you to provide to a prospective purchaser of your property, before you enter into a purchase agreement, a copy of the community's governing documents, including the C, C & R's, association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current *year-to-date* financial statement, *including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's* operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. You are also required to provide a copy of the minutes from the most recent meeting of the homeowner's association or its executive board. For more information regarding these requirements, see Nevada Revised Statutes 116.4103 and 116.4109.

~~{6.}~~ 7. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON-INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?

Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:

(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.

(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.

(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.

(d) To inspect, examine, photocopy and audit financial and other records of the association.

(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.

~~{7-}~~ 8. QUESTIONS?

Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common-interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Ombudsman for Owners in Common-Interest Communities, Nevada Real Estate Division, at (telephone number).

Buyer or prospective buyer's initials: \_\_\_\_\_

Date: \_\_\_\_\_

Sec. 78. NRS 116.600 is hereby amended to read as follows:

116.600 1. The Commission for Common-Interest Communities is hereby created.

2. The Commission consists of five members appointed by the Governor. The Governor shall appoint to the Commission:

(a) One member who is a unit's owner residing in this State and who has served as a member of an executive board in this State;

(b) One member who is in the business of developing common-interest communities in this State;

(c) One member who holds a ~~permit or~~ certificate;

(d) One member who is a certified public accountant licensed to practice in this State pursuant to the provisions of chapter 628 of NRS; and

(e) One member who is an attorney licensed to practice in this State.

3. Each member of the Commission must be a resident of this State. At least three members of the Commission must be residents of a county whose population is 400,000 or more.

4. Each member of the Commission must have resided in a common-interest community or have been actively engaged in a business or profession related to common-interest communities for not less than 3 years immediately preceding the date of his appointment.

5. After the initial terms, each member of the Commission serves a term of 3 years. Each member may serve not more than two consecutive full terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this section to replace the member for the remainder of the unexpired term.

6. While engaged in the business of the Commission, each member is entitled to receive:

(a) A salary of not more than \$80 per day, as established by the Commission; and

(b) The per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 79. NRS 116.615 is hereby amended to read as follows:

116.615 1. The provisions of this chapter ~~{shall}~~ *must* be administered by the Division, subject to the administrative supervision of the ~~{Commission}~~ *Director of the Department of Business and Industry*.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission or the Administrator, with the approval of the Commission, may adopt such regulations as are necessary to carry out the provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, *posted on its website* and offered for sale at a reasonable fee.

7. The Division may publish or supply a reference manual or study guide for community managers and may offer it for sale at a reasonable fee.

Sec. 80. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a ~~{permit or}~~ certificate and any other community manager.
- (d) Any ~~{declarant or affiliate of a declarant}~~ *person who holds a permit to conduct a study of the reserves of an association issued pursuant to sections 2 to 35, inclusive, of this act.*
- (e) Any unit's owner.
- (f) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:



(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 81. NRS 116.760 is hereby amended to read as follows:

116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation, file with the Division a written affidavit that sets forth the facts constituting the alleged violation. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation.

2. An aggrieved person may not file such an affidavit unless the aggrieved person has ~~{, on at least two separate occasions,}~~ provided the respondent by certified mail, return receipt requested, with written ~~{notices}~~ notice of the alleged violation set forth in the affidavit. The ~~{notices}~~ notice must:

(a) Be mailed to the respondent's last known address.

(b) ~~{Be mailed at least 15 days apart.}~~

~~{c)}~~ Specify, in reasonable detail, the alleged violation, any actual damages suffered by the aggrieved person as a result of the alleged violation, and any corrective action proposed by the aggrieved person.

3. A written affidavit filed with the Division pursuant to this section must be:

(a) On a form prescribed by the Division.

(b) Be accompanied by evidence that:

(1) The respondent has been given a reasonable opportunity after receiving the written ~~{notices}~~ notice to correct the alleged violation; and

(2) Reasonable efforts to resolve the alleged violation have failed.

4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.

Sec. 82. NRS 116.790 is hereby amended to read as follows:

116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board ~~{of an association}~~ or any person acting on behalf of the association has committed a violation, the Commission or the hearing panel may take any or all of the following actions:

~~{1.}~~ (a) Order an audit of the association.

~~{2.}~~ (b) Require the executive board to hire a community manager who holds a ~~{permit or}~~ certificate.

2. *The Commission or the Division, with the approval of the Commission, may apply to a court of competent jurisdiction for the*

*appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:*

- (a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;*
- (b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or*
- (c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.*

*3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.*

*4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.*

*5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.*

*6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:*

- (a) Take charge of the estate and effects of the association;*
- (b) Appoint an agent or agents;*
- (c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;*
- (d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and*
- (e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.*

Sec. 83. NRS 78.045 is hereby amended to read as follows:

78.045 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "bank" or "trust," unless:

(a) It appears from the articles or the certificate of amendment that the corporation proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The articles or certificate of amendment is first approved by the Commissioner of Financial Institutions.

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the provisions of this chapter if it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the articles or certificate of amendment is approved by the Commissioner who will supervise the business of the corporation.

3. Except as otherwise provided in subsection 6, the Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State if the name of the corporation contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the corporation are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the corporation is exempt from the prohibitions of NRS 625.520.

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed pursuant to the laws of this State which provides that the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the corporation:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the corporation is not engaged in the practice of accounting and is not offering to practice accounting in this State.

5. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words "*common-interest community*," "*community association*," "*master association*," "*unit-owners' association*" or "*homeowners' association*" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate

Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

6. The provisions of subsection 3 do not apply to any corporation, whose securities are publicly traded and regulated by the Securities Exchange Act of 1934, which does not engage in the practice of professional engineering.

7. The Commissioner of Financial Institutions and the Commissioner of Insurance may approve or disapprove the articles or amendments referred to them pursuant to the provisions of this section.

Sec. 84. Chapter 81 of NRS is hereby amended by adding thereto the provisions set forth as sections 85, 86 and 87 of this act.

Sec. 85. 1. *The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed under the provisions of this section and NRS 81.010 to 81.160, inclusive, which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment of articles of incorporation that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:*

*(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and*

*(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.*

2. *Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.*

Sec. 86. 1. *The Secretary of State shall not accept for filing any articles of association or any certificate of amendment of articles of association of any association formed under the provisions of NRS 81.170 to 81.270, inclusive, and this section which provides that the name of the association contains the words "common-interest community," "community*

association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of association or certificate of amendment of articles of association that the purpose of the association is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the association has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that an association which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the association to be in default. If, after the association is deemed to be in default, the Administrator notifies the Secretary of State that the association has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the association if the association complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185 and pays the fees required pursuant to NRS 82.193.

Sec. 87. 1. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed under the provisions of NRS 81.410 to 81.540, inclusive, and this section which provides that the name of the corporation contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment of articles of incorporation that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the corporation if the corporation complies with the

*requirements for reinstatement as provided in this section and NRS 78.180 and 78.185 and pays the fees required pursuant to NRS 82.193.*

Sec. 88. NRS 81.010 is hereby amended to read as follows:

81.010 1. Nonprofit cooperative corporations may be formed by the voluntary association of any three or more persons in the manner prescribed in NRS 81.010 to 81.160, inclusive ~~[-]~~, *and section 85 of this act*. A majority of the persons must be residents of this State, and such a corporation has and may exercise the powers necessarily incident thereto. Except as otherwise provided in subsection 2, the provisions of chapter 78 of NRS govern each nonprofit cooperative corporation organized pursuant to NRS 81.010 to 81.160, inclusive ~~[-]~~, *and section 85 of this act*. If such a nonprofit cooperative corporation is organized without shares of stock, the members shall be deemed to be "shareholders" or "stockholders" as these terms are used in chapter 78 of NRS.

2. If the term for which a nonprofit cooperative corporation was to exist has expired but the corporation has continued to perform the activities authorized by its original articles of incorporation or any amendment thereto, revival of its corporate existence does not require the consent of its members or stockholders. Each required action to accomplish a revival may be taken by a majority of the surviving directors. The revival is effective as of the date of expiration of the original term.

Sec. 89. NRS 81.170 is hereby amended to read as follows:

81.170 1. NRS 81.170 to 81.270, inclusive, *and section 86 of this act* being passed to promote association for mutual welfare, the words "lawful business" extend to every kind of lawful effort for business, education, industrial, benevolent, social or political purposes, whether conducted for profit or not.

2. NRS 81.170 to 81.270, inclusive, *and section 86 of this act* must not be strictly construed, but their provisions must at all times be liberally construed with a view to effect their object and to promote their purposes.

Sec. 90. NRS 81.200 is hereby amended to read as follows:

81.200 1. Each association formed under NRS 81.170 to 81.270, inclusive, *and section 86 of this act* shall prepare articles of association in writing, setting forth:

- (a) The name of the association.
- (b) The purpose for which it is formed.
- (c) The name of the person designated as the resident agent, the street address for service of process, and the mailing address if different from the street address.
- (d) The term for which it is to exist, which may be perpetual.
- (e) The names and addresses, either residence or business, of the directors selected for the first year.
- (f) The amount which each member is to pay upon admission as a fee for membership, and that each member signing the articles has actually paid the fee.

(g) That the interest and right of each member therein is to be equal.

(h) The name and address, either residence or business, of each of the persons signing the articles of association.

2. The articles of association must be signed by the original associates or members.

3. The articles so signed must be filed, together with a certificate of acceptance of appointment signed by the resident agent for the association, in the Office of the Secretary of State . ~~[, who shall furnish a certified copy thereof.]~~ From the time of the filing in the Office of the Secretary of State, the association may exercise all the powers for which it was formed.

Sec. 91. NRS 81.410 is hereby amended to read as follows:

81.410 1. Nonprofit cooperative corporations may be formed by the voluntary association of any three or more persons in the manner prescribed in NRS 81.410 to 81.540, inclusive ~~[,]~~, *and section 87 of this act.*

2. Except as otherwise provided in subsection 3, the provisions of chapter 82 of NRS govern a nonprofit cooperative corporation organized pursuant to NRS 81.410 to 81.540, inclusive, *and section 87 of this act*, except to the extent that the provisions of chapter 82 of NRS are inconsistent with NRS 81.410 to 81.540, inclusive ~~[,]~~, *and section 87 of this act.*

3. NRS 82.081 and 82.136 do not apply to a nonprofit cooperative corporation organized pursuant to NRS 81.410 to 81.540, inclusive ~~[,]~~, *and section 87 of this act.*

Sec. 92. NRS 82.106 is hereby amended to read as follows:

82.106 1. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the words "trust," "engineer," "engineered," "engineering," "professional engineer" or "licensed engineer."

2. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing under this chapter when it appears from the articles or the certificate of amendment that the business to be carried on by the corporation is subject to supervision by the Commissioner of Insurance.

3. The Secretary of State shall not accept for filing pursuant to this chapter any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to this chapter if the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing."

4. The Secretary of State shall not accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation of any corporation formed or existing pursuant to the laws of this State which provides that the name of the corporation contains the words "common-interest community," "community association," "master

*association*," "unit-owners' association" or "homeowners' association" or if it appears in the articles of incorporation or certificate of amendment that the purpose of the corporation is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the corporation has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

Sec. 93. NRS 86.171 is hereby amended to read as follows:

86.171 1. The name of a limited-liability company formed under the provisions of this chapter must contain the words "Limited-Liability Company," "Limited Liability Company," "Limited Company," or "Limited" or the abbreviations "Ltd.," "L.L.C.," "L.C.," "LLC" or "LC." The word "Company" may be abbreviated as "Co."

2. The name proposed for a limited-liability company must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If a proposed name is not so distinguishable, the Secretary of State shall return the articles of organization to the organizer, unless the written, acknowledged consent of the holder of the name on file or reserved name to use the same name or the requested similar name accompanies the articles of organization.

3. For the purposes of this section and NRS 86.176, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The name of a limited-liability company whose charter has been revoked, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State shall not accept for filing any articles of organization for any limited-liability company if the name of the limited-liability company contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited-liability company:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited-liability company is not engaged in the practice of accounting and is not offering to practice accounting in this State.

6. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any



limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the word "bank" or "trust" unless:

(a) It appears from the articles of organization or the certificate of amendment that the limited-liability company proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and

(b) The articles of organization or certificate of amendment is first approved by the Commissioner of Financial Institutions.

7. The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the provisions of this chapter if it appears from the articles or the certificate of amendment that the business to be carried on by the limited-liability company is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions unless the articles or certificate of amendment is approved by the Commissioner who will supervise the business of the foreign limited-liability company.

8. Except as otherwise provided in subsection 7, the Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

(a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited-liability company are licensed to practice engineering pursuant to the laws of this State; or

(b) The State Board of Professional Engineers and Land Surveyors certifies that the limited-liability company is exempt from the prohibitions of NRS 625.520.

9. *The Secretary of State shall not accept for filing any articles of organization or certificate of amendment of articles of organization of any limited-liability company formed or existing pursuant to the laws of this State which provides that the name of the limited-liability company contains the words "common-interest community," "community association," "master association," "unit-owners' association" or "homeowners' association" or if it appears in the articles of organization or certificate of amendment of articles of organization that the purpose of the limited-liability company is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited-liability company has:*

*(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and*

*(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.*

10. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 94. NRS 86.272 is hereby amended to read as follows:

86.272 1. Each limited-liability company which is required to make a filing and pay the fee prescribed in NRS 86.263 and 86.264 and which refuses or neglects to do so within the time provided is in default.

2. *Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a limited-liability company which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the limited-liability company to be in default. If, after the limited-liability company is deemed to be in default, the Administrator notifies the Secretary of State that the limited-liability company has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the limited-liability company if the limited-liability company complies with the requirements for reinstatement as provided in this section and NRS 86.276.*

3. For default there must be added to the amount of the fee a penalty of \$75. The fee and penalty must be collected as provided in this chapter.

Sec. 95. NRS 87.450 is hereby amended to read as follows:

87.450 1. The name proposed for a registered limited-liability partnership must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of the name and must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name of the registered limited-liability partnership on a certificate of registration of limited-liability partnership submitted to the Secretary of State is not distinguishable from a name on file or reserved name, the Secretary of State shall return the certificate to the person who signed it unless the written, acknowledged consent of the holder of the name on file or reserved name to use the name accompanies the certificate.

2. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the

laws of this State which provides that the name of the registered limited-liability partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the registered limited-liability partnership:

- (a) Is registered pursuant to the provisions of chapter 628 of NRS; or
- (b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the registered limited-liability partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the word "bank" or "trust" unless:

- (a) It appears from the certificate of registration or the certificate of amendment that the registered limited-liability partnership proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and
- (b) The certificate of registration or certificate of amendment is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the provisions of this chapter if it appears from the certificate of registration or the certificate of amendment that the business to be carried on by the registered limited-liability partnership is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the certificate of registration or certificate of amendment is approved by the Commissioner who will supervise the business of the registered limited-liability partnership.

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

- (a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the registered limited-liability partnership are licensed to practice engineering pursuant to the laws of this State; or
- (b) The State Board of Professional Engineers and Land Surveyors certifies that the registered limited-liability partnership is exempt from the prohibitions of NRS 625.520.

7. The Secretary of State shall not accept for filing any certificate of registration or certificate of amendment of a certificate of registration of any

registered limited-liability partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability partnership contains the words "*common-interest community*," "*community association*," "*master association*," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of registration or certificate of amendment that the purpose of the registered limited-liability partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the registered limited-liability partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

8. The name of a registered limited-liability partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 96. NRS 88.320 is hereby amended to read as follows:

88.320 1. Except as otherwise provided in NRS 88.6065, the name proposed for a limited partnership as set forth in its certificate of limited partnership:

(a) Must contain the words "Limited Partnership," or the abbreviation "LP" or "L.P.";

(b) May not contain the name of a limited partner unless:

(1) It is also the name of a general partner or the corporate name of a corporate general partner; or

(2) The business of the limited partnership had been carried on under that name before the admission of that limited partner; and

(c) Must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name on the certificate of limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the filer, unless the written, acknowledged consent to the use of the same or the requested similar name of the holder of the name on file or reserved name accompanies the certificate of limited partnership.

2. For the purposes of this section, a proposed name is not distinguished from a name on file or reserved name solely because one or the other

contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

3. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the limited partnership:

- (a) Is registered pursuant to the provisions of chapter 628 of NRS; or
- (b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the limited partnership is not engaged in the practice of accounting and is not offering to practice accounting in this State.

4. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the word "bank" or "trust" unless:

- (a) It appears from the certificate of limited partnership that the limited partnership proposes to carry on business as a banking or trust company, exclusively or in connection with its business as a bank, savings and loan association or thrift company; and
- (b) The certificate of limited partnership is first approved by the Commissioner of Financial Institutions.

5. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the provisions of this chapter if it appears from the certificate of limited partnership that the business to be carried on by the limited partnership is subject to supervision by the Commissioner of Insurance or by the Commissioner of Financial Institutions, unless the certificate of limited partnership is approved by the Commissioner who will supervise the business of the limited partnership.

6. Except as otherwise provided in subsection 5, the Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to the laws of this State which provides that the name of the limited partnership contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless:

- (a) The State Board of Professional Engineers and Land Surveyors certifies that the principals of the limited partnership are licensed to practice engineering pursuant to the laws of this State; or
- (b) The State Board of Professional Engineers and Land Surveyors certifies that the limited partnership is exempt from the prohibitions of NRS 625.520.

7. The Secretary of State shall not accept for filing any certificate of limited partnership for any limited partnership formed or existing pursuant to

the laws of this State which provides that the name of the limited partnership contains the words "*common-interest community*," "*community association*," "*master association*," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of limited partnership that the purpose of the limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the Administrator of the Real Estate Division of the Department of Business and Industry certifies that the limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

8. The name of a limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

9. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 97. NRS 88.6065 is hereby amended to read as follows:

88.6065 1. The name proposed for a registered limited-liability limited partnership must contain the words "Limited-Liability Limited Partnership" or "Registered Limited-Liability Limited Partnership" or the abbreviation "L.L.L.P." or "LLLP" as the last words or letters of the name and must be distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title. If the name of the registered limited-liability limited partnership on a certificate of registration of limited-liability limited partnership submitted to the Secretary of State is not distinguishable from any name on file or reserved name, the Secretary of State shall return the certificate to the person who signed it, unless the written, acknowledged consent to the same name of the holder of the name on file or reserved name to use the name accompanies the certificate.

2. The Secretary of State shall not accept for filing any certificate of registration or any certificate of amendment of a certificate of registration of any registered limited-liability limited partnership formed or existing pursuant to the laws of this State which provides that the name of the registered limited-liability limited partnership contains the words "*common-interest community*," "*community association*," "*master association*," "unit-owners' association" or "homeowners' association" or if it appears in the certificate of registration or certificate of amendment that the purpose of the registered limited-liability limited partnership is to operate as a unit-owners' association pursuant to chapter 116 of NRS unless the

Administrator of the Real Estate Division of the Department of Business and Industry certifies that the registered limited-liability limited partnership has:

(a) Registered with the Ombudsman for Owners in Common-Interest Communities pursuant to NRS 116.31158; and

(b) Paid to the Administrator of the Real Estate Division the fees required pursuant to NRS 116.31155.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination thereof.

4. The name of a registered limited-liability limited partnership whose right to transact business has been forfeited, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 98. NRS 645D.100 is hereby amended to read as follows:

645D.100 The provisions of this chapter do not apply to:

1. A federal or state employee, or an employee of a local government, who prepares or communicates an inspection report as part of his official duties, unless a certificate is required as a condition of his employment.

2. A person appointed to evaluate real estate pursuant to chapter 152 of NRS or NRS 269.125, except as required by the appointing judge.

3. A board of appraisers acting pursuant to NRS 269.135.

4. A person licensed, certified or registered pursuant to chapter 645, 645C or 684A of NRS while he is performing an act within the scope of his license, certification or registration. For the purposes of this subsection, a person licensed, certified or registered pursuant to chapter 645C of NRS shall be deemed to be acting within the scope of his license, certification or registration while he is performing an appraisal prescribed by federal law that requires a statement of visual condition and while he is preparing or communicating a report of such an appraisal.

5. A person who makes an evaluation of an improvement as an incidental part of his employment for which special compensation is not provided, if that evaluation is only provided to his employer for internal use within the place of his employment.

6. A person who provides an estimate of cost, repair or replacement of any improvements upon real estate.

7. Any person who reviews plans, performs inspections, prepares inspection reports or examines any component of a structure or construction pursuant to NRS 278.570 or 278.575.

8. *An independent registered architect or a licensed professional engineer while he is performing an inspection pursuant to NRS 116.4106.*

Sec. 99. NRS 116.071, 116.31075, 116.700, 116.705, 116.710, 116.715, 116.720 and 116.725 are hereby repealed.

Sec. 100. Notwithstanding the amendatory provisions of this act:

1. Between the dates of October 1, 2005, and October 6, 2006, a person who is licensed in this State as a real estate broker, broker-salesman or salesman and who holds a permit to conduct property management pursuant to chapter 645 of NRS on October 1, 2005, and who wishes to take an examination on the principles of management of a common-interest community to fulfill the educational requirements for a certificate to engage in management of a common-interest community as set forth in sections 2 to 35, inclusive, of this act must do the following:

(a) Take and pass the examination through the examination provider contracted with the Real Estate Division of the Department of Business and Industry;

(b) Complete and submit the reciprocal application on a form prescribed by the Division along with the results of the examination and the appropriate fee for the issuance of a certificate as prescribed by regulation of the Commission for Common-Interest Communities; and

(c) Pay the examination fee as prescribed by regulation of the Commission.

➔ If the examination required by this subsection is not offered on or before September 30, 2006, a person is not required to meet the requirements set forth in this subsection until October 1, 2007.

2. A person who fails to meet the requirements set forth in subsection 1 and who wishes to obtain a certificate to engage in management of a common-interest community must meet the requirements set forth in sections 2 to 35, inclusive, of this act and any regulations adopted pursuant thereto.

3. An original certificate issued pursuant to subsection 1 must be renewed with the Real Estate Division upon the expiration of the real estate license period, pursuant to chapter 645 of NRS, which occurs after October 1, 2007. Thereafter, the certificate must be renewed with the Division before the expiration of each subsequent license period as prescribed by regulation of the Commission.

4. A person who is engaged in conducting studies of the reserves of associations on October 1, 2005:

(a) May continue to conduct studies of the reserves of associations without obtaining a permit pursuant to sections 2 to 35, inclusive, of this act until July 1, 2007;

(b) On and after July 1, 2007, may not conduct a study of the reserves of an association unless he holds a permit issued pursuant to sections 2 to 35, inclusive, of this act; and

(c) Is subject to the provisions of chapter 116 of NRS, as amended, and sections 2 to 35, inclusive, of this act as if the person holds a permit issued pursuant to sections 2 to 35, inclusive, of this act.



Sec. 101. 1. This act becomes effective on July 1, 2005, for the purpose of adopting regulations and on October 1, 2005, for all other purposes.

2. Sections 27 and 28 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children, ➤ are repealed by the Congress of the United States, whichever is earlier."

Amend the title of the bill to read as follows:

"AN ACT relating to common-interest communities; requiring persons who act as community managers to hold certificates; requiring persons who conduct studies of the reserves of associations to hold permits; providing for the regulation of such persons by the Commission for Common-Interest Communities; revising provisions governing the management of associations; requiring the Commission to adopt certain regulations relating to associations; making certain technical changes to the organization of the provisions governing common-interest communities; making various other changes related to common-interest communities; providing penalties; and providing other matters properly relating thereto."

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 484.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 653.

Amend section 1, page 2, by deleting line 39 and inserting: "~~Program-~~ 5-] :".

Amend section 1, page 3, by deleting lines 1 and 2 and inserting:

*"(2) Except as otherwise provided in subparagraph (3), for a person who retires on or after January 1, 1994, and who was hired before July 1, 2006, and who has at least 5 years of service with the local government, 25"*

Amend section 1, page 3, line 5, after "NRS" by inserting "IA.310 or".

Amend section 1, page 3, between lines 10 and 11, by inserting:

*"(3) For a person:*

*(I) Who retires on or after January 1, 1994;*

*(II) Who was initially hired before July 1, 2006;*

(III) *Whose employment with the local government ceased on or after July 1, 2006, and who was subsequently rehired by the local government; and*

(IV) *Who had at least 5 years of service with the local government when his employment ceased,*

➔ *25 percent plus an additional 7.5 percent for each year of service with the local government in excess of 5 years to the maximum amount of 137.5 percent, excluding service purchased pursuant to NRS 1A.310 or 286.300 and any years of service with the local government that were earned after the person was rehired by the local government, of the base amount provided by law, for the purposes of subsection 2 of NRS 287.046, for the applicable fiscal year for the State's share of the cost of premiums or contributions for group insurance for persons who have retired with state service and who elect to participate in the Program.*

5. *Any person who is initially hired by a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State on or after July 1, 2006, is not entitled upon retirement to any payment pursuant to paragraph (b) of subsection 4 toward the cost of the premiums or contributions of the person for the Program upon retirement."*

Amend section 1, page 3, line 11, by deleting "5." and inserting "6."

Amend sec. 2, page 4, by deleting lines 1 through 4 and inserting:

"(b) ~~[For those persons who retire]~~ *Except as otherwise provided in paragraph (c), for a person who retires on or after January 1, 1994, ~~[with]~~ and who was hired before July 1, 2006, and who has at least 5 years of state service,"*

Amend sec. 2, page 4, by deleting lines 9 through 16 and inserting:

"(c) *For a person:*

(1) *Who retires on or after January 1, 1994;*

(2) *Who was initially hired on or before July 1, 2006;*

(3) *Whose employment with the State ceased on or after July 1, 2006, and who was subsequently rehired by the State; and*

(4) *Who had at least 5 years of service with the State when his employment ceased,*

➔ *25 percent plus an additional 7.5 percent for each year of state service in excess of 5 years to the maximum amount of 137.5 percent of the base amount provided by law for that fiscal year, excluding service purchased pursuant to NRS 1A.310 or 286.300 and any years of state service that were earned after the person was rehired by the State."*

Amend the title of the bill, second line, after "state" by inserting: "or local governmental".

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Raggio moved that Senate Bill No. 484 be placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 360 be taken from the General File and placed on the bottom of the General File.

Remarks by Senator Raggio.

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

Motion carried.

Senate in recess at 5:18 p.m.

#### SENATE IN SESSION

At 5:22 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senator Raggio withdrew his motion that Senate Bill No. 360 be taken from the General File and placed on the bottom of the General File.

Remarks by Senator Raggio.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

Remarks by Senators Care, Coffin and Hardy.

Roll call on Senate Bill No. 123:

YEAS—14.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Titus—6.

EXCUSED—Washington.

Senate Bill No. 123 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 153.

Bill read third time.

Roll call on Senate Bill No. 153:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 153 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 184.

Bill read third time.

Roll call on Senate Bill No. 184:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 184 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 262.

Bill read third time.

Roll call on Senate Bill No. 262:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 262 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 267.

Bill read third time.

Roll call on Senate Bill No. 267:

YEAS—19.

NAYS—Coffin.

EXCUSED—Washington.

Senate Bill No. 267 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 286.

Bill read third time.

Roll call on Senate Bill No. 286:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 286 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 360.

Bill read third time.

Roll call on Senate Bill No. 360:

YEAS—10.

NAYS—Beers, Cegavske, Hardy, Heck, McGinness, Nolan, Raggio, Rhoads, Tiffany,  
Townsend—10.

EXCUSED—Washington.

Senate Bill No. 360 having failed to receive a constitutional majority,  
Mr. President pro Tempore declared it lost.

Senate Bill No. 386.

Bill read third time.

Roll call on Senate Bill No. 386:

YEAS—11.

NAYS—Care, Carlton, Coffin, Horsford, Lee, Mathews, Schneider, Titus, Wiener—9.

EXCUSED—Washington.

Senate Bill No. 386 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 411.

Bill read third time.

Roll call on Senate Bill No. 411:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 411 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 430.

Bill read third time.

Roll call on Senate Bill No. 430:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 430 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 453.

Bill read third time.

Roll call on Senate Bill No. 453:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 453 having received a two-thirds majority, Mr. President  
pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 457.

Bill read third time.

Roll call on Senate Bill No. 457:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 457 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 462.

Bill read third time.

The following amendment was proposed by Senator Cegavske:

Amendment No. 490.

Amend the bill as a whole by adding a new section designated sec. 185.8, following sec. 185.7, to read as follows:

"Sec. 185.8. NRS 439.150 is hereby amended to read as follows:

439.150 1. The State Board of Health is hereby declared to be supreme in all nonadministrative health matters. It has general supervision over all matters, except for administrative matters, relating to the preservation of the health and lives of citizens of this State and over the work of the State Health Officer and all district, county and city health departments, boards of health and health officers.

2. The Department of Human Resources is hereby designated as the agency of this State to cooperate with the federal authorities in the administration of those parts of the Social Security Act which relate to the general promotion of Public Health. It may receive and expend all money made available to the Health Division by the Federal Government, the State of Nevada or its political subdivisions, or from any other source, for the purposes provided in this chapter. In developing and revising any state plan in connection with federal assistance for health programs, the Department shall consider, without limitation, the amount of money available from the Federal Government for those programs, the conditions attached to the acceptance of that money and the limitations of legislative appropriations for those programs.

3. Except as otherwise provided in NRS ~~[458.025 and]~~ 576.128, the State Board of Health may set reasonable fees for the:

- (a) Licensing, registering, certifying, inspecting or granting of permits for any facility, establishment or service regulated by the Health Division;
- (b) Programs and services of the Health Division;
- (c) Review of plans; and
- (d) Certification and licensing of personnel.

➤ Fees set pursuant to this subsection must be calculated to produce for that period the revenue from the fees projected in the budget approved for the Health Division by the Legislature."

Amend the bill as a whole by renumbering sections 189 and 190 as sections 208 and 209 and adding new sections designated sections 189 through 207, following sec. 188.5, to read as follows:

"Sec. 189. NRS 449.00455 is hereby amended to read as follows:

449.00455 "Facility for the treatment of abuse of alcohol or drugs" means any public or private establishment which provides residential

treatment, including mental and physical restoration, of abusers of alcohol or drugs and which is certified by the ~~[Health]~~ *Division of Mental Health and Developmental Services of the Department of Human Resources* pursuant to subsection 4 of NRS 458.025. It does not include a medical facility or services offered by volunteers or voluntary organizations.

Sec. 190. NRS 458.010 is hereby amended to read as follows:

458.010 As used in NRS 458.010 to 458.350, inclusive, unless the context requires otherwise:

1. "Administrator" means the Administrator of the ~~[Health]~~ Division.
2. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.
3. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects his ability to function socially or economically.
4. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that he endangers the health, safety or welfare of himself or any other person or group of persons.
5. ~~["Board" means the State Board of Health.]~~
6. "Civil protective custody" means a custodial placement of a person to protect his health or safety. Civil protective custody does not have any criminal implication.
- ~~7. "Detoxification technician" means a person who is certified by the [Health] Division to provide screening for the safe withdrawal from alcohol and other drugs.~~
7. "Division" means the *Division of Mental Health and Developmental Services of the Department of Human Resources*.
8. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers.

~~[9. "Health Division" means the Health Division of the Department of Human Resources.]~~

Sec. 191. NRS 458.010 is hereby amended to read as follows:

458.010 As used in NRS 458.010 to 458.350, inclusive, unless the context requires otherwise:

1. "Administrator" means the Administrator of the ~~[Health]~~ Division.
2. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.
3. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects his ability to function socially or economically.
4. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that he endangers the health, safety or welfare of himself or any other person or group of persons.

5. ~~["Board" means the State Board of Health.~~

6. ~~]~~ "Civil protective custody" means a custodial placement of a person to protect his health or safety. Civil protective custody does not have any criminal implication.

6. *"Division" means the Division of Mental Health and Developmental Services of the Department of Human Resources.*

7. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers.

~~{8. "Health Division" means the Health Division of the Department of Human Resources.}~~

Sec. 192. NRS 458.025 is hereby amended to read as follows:

458.025 The ~~{Health}~~ Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

↪ In developing and revising the state plan, the ~~{Health}~~ Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of detoxification technicians or any facilities or programs on the basis of the standards established by the ~~{Board}~~ Division pursuant to this section, and publish a list of certified detoxification technicians, facilities and programs. Any detoxification technicians, facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The ~~{Board}~~ Division shall adopt regulations. The regulations:



(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and

(b) May prescribe the fees for the certification of detoxification technicians, facilities or programs. A fee prescribed pursuant to this paragraph must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the ~~Health~~ Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility, its programs and detoxification technicians and add them to the list described in subsection 4.

Sec. 193. NRS 458.025 is hereby amended to read as follows:

458.025 The ~~Health~~ Division:

1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:

(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.

(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.

(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.

↪ In developing and revising the state plan, the ~~Health~~ Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.

2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.

3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.

4. Shall certify or deny certification of any facilities or programs on the basis of the standards established by the ~~Board~~ Division pursuant to this section, and publish a list of certified facilities and programs. Any facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The ~~Board~~ Division shall adopt regulations, which may prescribe the fees for the certification of facilities or programs. A fee prescribed pursuant to this subsection must be calculated to produce the revenue estimated to cover the costs related to the

certifications, but in no case may a fee for a certificate exceed the actual cost to the ~~Health~~ Division of issuing the certificate.

5. Upon request from a facility which is self-supported, may certify the facility and its programs and add them to the list described in subsection 4.

Sec. 194. NRS 458.026 is hereby amended to read as follows:

458.026 1. An applicant for the issuance or renewal of his certification as a detoxification technician must submit to the ~~Health~~ Division the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The ~~Health~~ Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certification; or

(b) A separate form prescribed by the ~~Health~~ Division.

3. The certification of a person as a detoxification technician may not be issued or renewed by the ~~Health~~ Division if the applicant:

(a) Fails to complete or submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Administrator shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 195. NRS 458.027 is hereby amended to read as follows:

458.027 1. If the ~~Health~~ Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as a detoxification technician, the ~~Health~~ Division shall deem the certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the ~~Health~~ Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The ~~Health~~ Division shall reinstate the certification of a person as a detoxification technician that has been suspended by a district court pursuant to NRS 425.540 if the ~~Health~~ Division receives a letter issued by the district

attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 196. NRS 458.031 is hereby amended to read as follows:

458.031 The ~~Health~~ Division shall administer the provisions of NRS 458.010 to 458.350, inclusive, as the sole agency of the State of Nevada for that purpose.

Sec. 197. NRS 458.035 is hereby amended to read as follows:

458.035 The ~~Health~~ Division may contract with any appropriate public or private agency, organization or institution to carry out the provisions of NRS 458.010 to 458.350, inclusive.

Sec. 198. NRS 458.055 is hereby amended to read as follows:

458.055 1. To preserve the confidentiality of any information concerning persons applying for or receiving any services pursuant to NRS 458.010 to 458.350, inclusive, the ~~Health~~ Division may establish and enforce rules governing the confidential nature, custody, use and preservation of the records, files and communications filed with the ~~Health~~ Division.

2. Wherever information concerning persons applying for and receiving any services pursuant to NRS 458.010 to 458.350, inclusive, is furnished to or held by any other government agency or a public or private institution, the use of that information by the agency or institution is subject to the rules established by the ~~Health~~ Division pursuant to subsection 1.

3. Except as otherwise provided in NRS 442.300 to 442.330, inclusive, and 449.705 and chapter 629 of NRS and except for purposes directly connected with the administration of NRS 458.010 to 458.350, inclusive, a person shall not disclose, use or authorize the disclosure of any confidential information concerning a person receiving services pursuant to NRS 458.010 to 458.350, inclusive.

Sec. 199. NRS 458.080 is hereby amended to read as follows:

458.080 The ~~Health~~ Division may, by contracting with organized groups, render partial financial assistance in the operation of facilities established by these groups. Each such contract must contain a provision allowing for an audit of all accounts, books and other financial records of the organization with which the agency contracts.

Sec. 200. NRS 458.097 is hereby amended to read as follows:

458.097 1. Money received by the ~~Health~~ Division pursuant to NRS 369.174 must be used to increase services for the prevention of alcohol and drug abuse and alcoholism and for the detoxification and rehabilitation of alcohol and drug abusers. In allocating the money for the increase of services, the ~~Health~~ Division shall give priority to:

(a) The areas where there exists a shortage of services for the treatment of alcoholism and alcohol abuse. The ~~Health~~ Division shall determine the areas of shortage on the basis of data available from state and local agencies,

data contained in the comprehensive state plan for alcohol and drug abuse programs, and other appropriate data.

(b) The needs of counties to provide:

(1) Civil protective custody, pursuant to NRS 458.270, for persons who are found in public places while under the influence of alcohol; and

(2) Secure detoxification units or other appropriate facilities for persons who are arrested or taken into custody while under the influence of a controlled substance.

(c) Alcohol and drug abuse programs that are primarily directed toward the prevention of such abuse.

2. As used in this section, "secure detoxification unit" has the meaning ascribed to it in NRS 458.175.

Sec. 201. NRS 458.100 is hereby amended to read as follows:

458.100 1. All gifts or grants of money for an alcohol and drug abuse program which the ~~{Health}~~ Division is authorized to accept must be deposited in the State Treasury for credit to the State Grant and Gift Account for Alcohol and Drug Abuse which is hereby created in the Department of Human Resources' Gift Fund.

2. Money in the Account must be used to carry out the provisions of NRS 458.010 to 458.350, inclusive.

3. All claims must be approved by the Administrator before they are paid.

Sec. 202. NRS 458.103 is hereby amended to read as follows:

458.103 The ~~{Health}~~ Division may accept:

1. Money appropriated and made available by any act of Congress for any alcohol and drug abuse program administered by the ~~{Health}~~ Division as provided by law.

2. Money appropriated and made available by the State of Nevada or by a county, a city, a public district or any political subdivision of this State for any alcohol and drug abuse program administered by the ~~{Health}~~ Division as provided by law.

Sec. 203. NRS 458.104 is hereby amended to read as follows:

458.104 1. If the Administrator determines that current claims exceed the amount of money available to the ~~{Health}~~ Division because of a delay in the receipt of money from federal grants, he may request from the Director of the Department of Administration a temporary advance from the State General Fund for the payment of authorized expenses.

2. The Director of the Department of Administration shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of his approval of a request made pursuant to subsection 1. The State Controller shall draw his warrant upon receipt of the approval by the Director of the Department of Administration.

3. An advance from the State General Fund:

(a) Must be approved by the Director of the Department of Administration for use pursuant to NRS 458.080; and

(b) Is limited to 25 percent of the revenue expected to be received in the current fiscal year from any source other than legislative appropriation.

4. Any money which is temporarily advanced from the State General Fund to the ~~Health~~ Division pursuant to this section must be repaid by August 31 following the end of the fiscal year during which the money was advanced.

Sec. 204. NRS 458.105 is hereby amended to read as follows:

458.105 The ~~Health~~ Division may fix and collect reasonable fees for the sale of miscellaneous printed materials pertaining to alcohol and drug abuse which are purchased or prepared by the ~~Health~~ Division. The fees must be deposited in the State Treasury to the credit of the General Fund.

Sec. 205. NRS 458.110 is hereby amended to read as follows:

458.110 In addition to the activities set forth in NRS 458.025 to 458.115, inclusive, the ~~Health~~ Division may engage in any activity necessary to effectuate the purposes of NRS 458.010 to 458.350, inclusive.

Sec. 206. NRS 458.125 is hereby amended to read as follows:

458.125 1. The ~~Health~~ Division shall prepare requests for proposals for the provision by facilities of:

- (a) Residential treatment of adolescents who engage in substance abuse;
- (b) Outpatient treatment of adolescents who engage in substance abuse;
- (c) Comprehensive evaluations of adolescents with problems relating to substance abuse or mental illness, or both; and
- (d) Transitional housing for adolescents who engage in substance abuse.

2. Upon accepting a proposal submitted in accordance with this section, the ~~Health~~ Division may advance not more than 8 percent of the amount of the proposal to the facility that submitted the proposal to help defray the costs of starting the provision of the services, including, without limitation, the cost of beds, equipment and rental space for expansion.

3. The ~~Health~~ Division shall establish such requirements for the requests for proposals as it determines necessary.

4. The ~~Health~~ Division shall hire, to the extent of legislative authorization, such staff as it determines necessary to carry out the provisions of this section and NRS 458.131.

Sec. 207. NRS 458.131 is hereby amended to read as follows:

458.131 The ~~Health~~ Division shall, on or before September 1 of each odd-numbered year, submit to the Director of the Department of Human Resources a report covering the biennium ending on June 30 of that year. The report must include:

1. The name of each facility that received money pursuant to NRS 458.125 during the biennium, and the amount of money that each facility received for each type of service provided;

2. If a facility received money pursuant to NRS 458.125 during the biennium to help defray the costs of starting the provision of services, the name of the facility, the amount of money received and an accounting of how the money was used;

3. The number of adolescents who received any of the services described in NRS 458.125 from those facilities during the biennium, and the number of adolescents who were receiving those services as of the end of the biennium; and

4. As of the end of the biennium:

(a) The number of adolescents on waiting lists to receive the services described in NRS 458.125; and

(b) An estimate of the number of other adolescents in this State who are in need of the services described in NRS 458.125."

Amend the bill as a whole by deleting sec. 190.5, renumbering sections 191 through 199 as sections 210 through 218 and adding a new section designated sec. 219, following sec. 199, to read as follows:

"Sec. 219. 1. This section and sections 1 to 190, inclusive, 192 and 194 to 218, inclusive, of this act become effective on October 1, 2005.

2. Sections 190, 192, 194 and 195 of this act expire by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.

3. Sections 191 and 193 of this act become effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation."

Amend the title of the bill to read as follows:

"AN ACT relating to public welfare; repealing, reenacting, reorganizing and revising certain provisions relating to the Welfare Division, the Division of Health Care Financing and Policy and the Division of Child and Family Services of the Department of Human Resources; revising certain provisions relating to property tax assistance for senior citizens; revising certain provisions relating to the Chief Research and Statistical Analyst of the Health Division of the Department of Human Resources; providing that the Director of the Department or his designee is responsible for appointing and removing certain employees of the Department; repealing certain provisions which require the Department of Employment, Training and Rehabilitation to employ job development coordinators to promote employment for persons who receive public assistance; repealing certain provisions concerning community service block grants; transferring certain duties of the Health Division of the Department of Human Resources concerning services for the abuse of alcohol or drugs to the Division of Mental Health and Developmental Services of the Department; changing the name of the Department of Human Resources to the Department of Health and Human Services; changing the name of the Welfare Division of the Department of Human Resources to the Division of Welfare and Supportive Services of the

Department of Health and Human Services; reenacting certain penalties; and providing other matters properly relating thereto."

Senator Cegavske moved the adoption of the amendment.

Remarks by Senators Cegavske, Heck, Townsend, Wiener and Coffin.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 464.

Bill read third time.

Remarks by Senator Cegavske.

Roll call on Senate Bill No. 464:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 464 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 473.

Bill read third time.

Roll call on Senate Bill No. 473:

YEAS—16.

NAYS—Care, Carlton, Mathews, McGinness—4.

EXCUSED—Washington.

Senate Bill No. 473 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 481.

Bill read third time.

Roll call on Senate Bill No. 481:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 481 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 488.

Bill read third time.

Roll call on Senate Bill No. 488:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 488 having received a constitutional majority,  
Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Mr. President pro Tempore announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:55 p.m.

#### SENATE IN SESSION

At 6 p.m.

President pro Tempore Amodei presiding.

Quorum present.

Senate Bill No. 325.

Bill read third time.

Roll call on Senate Bill No. 325:

YEAS—20.

NAYS—None.

EXCUSED—Washington.

Senate Bill No. 325 having received a two-thirds majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 462.

Bill read third time.

Roll call on Senate Bill No. 462:

YEAS—15.

NAYS—Carlton, Coffin, Horsford, Mathews, Titus—5.

EXCUSED—Washington.

Senate Bill No. 462 having received a constitutional majority, Mr. President pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Coffin moved that the action whereby Senate Bill No. 360 was lost be rescinded.

Remarks by Senators Coffin and Horsford.

Senators Coffin, Carlton and Horsford requested a roll call vote on Senator Coffin's motion.

Roll call on Senator Coffin's motion:

YEAS—10.

NAYS—Beers, Cegavske, Hardy, Heck, McGinness, Nolan, Raggio, Rhoads, Tiffany, Townsend—10.

EXCUSED—Washington.

The motion having failed to receive a majority, Mr. President pro Tempore declared it lost.

#### GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teachers from the Dilworth Middle School: Allura Addington, Alyssa Addington,



Jesus Aguilar, Adilene Agustin, Sinjin Anderson, Jolena Aquino, Cristina Barajas, Alan Barba, Celeste Bedolla, Joshua Boals, Michael Bowers, Angel Camarena, Mariela Castillo, Eduardo Cervantes, Jaimie Ceja, Tanya Chavez, Yesenia Corral, Stephanie Dominguez, Nicole Eastman, Jared Eaton, Karen Espitia, Codi Ferro, Nina Franco, Janet Godoy, Daniel Gomez, Juan Gonzalez, Zane Green, Elizabeth Hernandez, Francisco Herrerra, Edgar Hinojosa, Karen Innocence, Tyler Johnson, Jared Johnson, Anthony Kimpan, Kelly Lannes, Kimberly Lara, Miguel Bernal, Janet Mancha, Matthew Mangoang, Jahahi Mazariego, Nancy Mendoza, Maira Murillo-Manzo, Anna Navarro, Linda Nelson, Aaron Nieznanski, Alex Nieznanski, Samantha Overton, Ulises Medina, Fabian Padilla, Karen Palomino, Roshani Patel, Miguel Pina, Lillian Ponce, Tiffany Reynolds, Ciara Lambright, Paige McElroy, Sunny Singh, Daniel Sanchez, Duane Scott, Kevan Scott, Luis Segura, Jonathan Serafin, Brenda Serafin, Desirae Serrano, Shelby Shrom, Marilyn Snider, Alyssa Southworth, Cynthia Felix-Torres, James Thornton, E. Yazmin Trujillo, Ivan Trujillo, Pedro Velasquez, Jessica Villasenor, Ada Weninger, Chris Wolken; teachers: Dino Moler, Dana Ryan, Eric Wacker, Judy Spencer, Lalita Cole, Chris MacDonald, Judy Norton, Karla Carr and Kelly Hulse.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to David Roger.

Senator Raggio moved that the Senate adjourn until Wednesday, April 27, 2005, at 11 a.m.

Motion carried.

Senate adjourned at 6:09 p.m.

Approved:

MARK E. AMODEI  
*President pro Tempore of the Senate*

Attest: CLAIRE J. CLIFT

*Secretary of the Senate*