

THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 22, 2007

Assembly called to order at 11:02 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, I pray for the members of this body today. May they see the larger picture of the work that they have to accomplish in the next two weeks. Help them to understand that it is better to fail in a cause that will ultimately succeed than to succeed in a cause that will ultimately fail. Guide them in their work and then teach them to listen.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bill No. 619; Senate Bills Nos. 3, 53, 111, 279, 310, 432 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN OCEGUERA, *Chair*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 4, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 5, 314, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 103, 157, 237, 242, 542, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

Madam Speaker:

Your Committee on Ways and Means, to which were rereferred Assembly Bills Nos. 291, 586, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF WAIVER

A Waiver requested by: Legislative Counsel

For: A New BDR No. 24-1515 (S.B. 573): Makes various changes regarding precinct meetings of major political parties.

To Waive:

Subsections 1 and 2 of Joint Standing Rule No. 14 and Joint Standing Rule Nos. 14.2 and 14.3.

Has been granted effective: May 18, 2007.

WILLIAM J. RAGGIO
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

A Waiver requested by: William J. Raggio

For: Senate Joint Resolution No. 2.

To Waive:

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Has been granted effective: Monday, May 21, 2007.

WILLIAM J. RAGGIO
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

Assemblyman Ocegüera moved that AHORA NEWSPAPER: Mario Delarosa, be accepted as accredited press representatives, that they be assigned space at the press table in the Assembly Chamber and that they be allowed use of appropriate broadcasting facilities.

Motion carried.

Assemblyman Ocegüera moved that for the balance of the session, the reading of the history on all bills and joint resolutions be dispensed with.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 586.

Bill read second time.

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

Amendment No. 878.

SUMMARY—~~[Revises]~~ **Provides for the enforcement of** certain provisions governing the regulation and taxation of ~~[the sales and use of cigarettes and other]~~ tobacco products ~~[.]~~ **other than cigarettes.** (BDR 32-515)

AN ACT relating to tobacco; revising certain provisions for the enforcement of taxes and restrictions on the sale and use of cigarettes to provide for the enforcement of taxes and restrictions on the sale and use of other tobacco products; ~~[requiring the production of certain documents to assist in the administration and enforcement of the requirements for delivery sales of tobacco; revising certain provisions governing the regulation and~~

~~taxation of tobacco for consistency,]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the imposition, administration and enforcement of taxes on cigarettes. (NRS 370.001-370.430) Existing law provides separately for the imposition and administration of a tax on products made from tobacco, other than cigarettes. (NRS 370.440-370.503)

Section 3 of this bill provides a common definition ~~for~~ **for such** "other tobacco product." Sections 2, 4, 9 and 25-28 of this bill assist in the enforcement of the tax on any "other tobacco product" by providing for the treatment of and imposition of criminal penalties regarding contraband "other tobacco products" in the same manner as contraband cigarettes.

~~[Existing law prohibits the sale and distribution of cigarettes and other tobacco products to a minor and imposes criminal penalties for violations of that prohibition. (NRS 202.2493, 202.24935) Existing law also imposes various requirements on the delivery sale of cigarettes to assist in the enforcement of that prohibition. (NRS 370.321-370.329) Sections 10, 15 and 20-24 of this bill expand those requirements to include delivery sales of the other tobacco products. To assist in the administration and enforcement of the requirements for delivery sales, section 6 of this bill requires the production of any related documents for inspection by the Department of Taxation.~~

~~Existing law requires the licensing of wholesale and retail dealers of cigarettes. (NRS 370.080) Existing law also requires the licensing of wholesale and retail dealers of tobacco products other than cigarettes. (NRS 370.445) Sections 14, 16 and 39 of this bill repeal the licensing requirements for dealers in tobacco products other than cigarettes and includes those dealers in the licensing requirements for cigarette dealers.]~~

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

Section 1. Chapter 370 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[to 6, inclusive,]~~, **3 and 4** of this act.

Sec. 2. ***"Other counterfeit tobacco product" means any other tobacco product or tobacco product package bearing a false manufacturing label.***

Sec. 3. ***"Other tobacco product" means any tobacco of any description or any product made from tobacco, other than cigarettes.***

Sec. 4. ***"Tobacco product package" means the individual pack, box or other container that contains any other tobacco product. The term does not include a container that itself contains other containers.***

Sec. 5. ~~["Wholesale tobacco price" means:~~
~~1. Except as otherwise provided in subsection 2, the established price for which a manufacturer sells any other tobacco product to a wholesale dealer before any discount or other reduction is made.~~

~~2. For any other tobacco product sold to a retail dealer or a consumer by a wholesale dealer who manufactures or produces any other tobacco products within this State and who sells or distributes those products within the State to other wholesale dealers, retail dealers or consumers, the established price for which the product is sold to the retail dealer or consumer before any discount or other reduction is made.] (Deleted by amendment.)~~

Sec. 6. ~~[1. To assist in the administration and enforcement of NRS 370.321 to 370.329, inclusive, any person who makes a delivery sale or mails, ships or otherwise delivers cigarettes or any other tobacco product to a consumer in this State, or who retains another person to make a delivery sale or mail, ship or otherwise deliver cigarettes or any other tobacco product to a consumer in this State, shall, upon the request of any agent of the Department, produce and make available for inspection by any agent of the Department any books, records and other documents relating to that delivery sale, mailing, shipment or other delivery.~~

~~2. If any person described in subsection 1 fails or refuses to produce and make available for inspection any book, record or other document described in that subsection upon the request of an agent of the Department, the Executive Director or Attorney General may issue a subpoena to require the production of that document.~~

~~3. If any person refuses to produce any document as required by the subpoena, the Executive Director or Attorney General may report to the district court by petition, setting forth that:~~

~~(a) Due notice has been given of the time and place of the production of the document;~~

~~(b) The person has been subpoenaed by the Executive Director or Attorney General pursuant to this section; and~~

~~(c) The person has failed or refused to produce the document required by the subpoena;~~

~~and asking for an order of the court compelling the person to produce the document.~~

~~4. Upon such petition, the court shall enter an order directing the person to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not produced the document. A certified copy of the order must be served upon the person.~~

~~5. If it appears to the court that the subpoena was regularly issued by the Executive Director or Attorney General, the court shall enter an order that the person produce the required document at the time and place fixed in the order. Failure to obey the order constitutes contempt of court.] (Deleted by amendment.)~~

Sec. 7. NRS 370.001 is hereby amended to read as follows:

370.001 As used in NRS 370.001 to 370.430, ~~370.530,~~ inclusive, **and sections 2 ~~to 6, inclusive,~~ 3 and 4 of this act**, unless the context otherwise requires, the words and terms defined in NRS 370.005 to 370.055, inclusive,

and sections 2 ~~to 5, inclusive,~~ , 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 8. ~~[NRS 370.020 is hereby amended to read as follows:~~

~~370.020 "Consumer" means any person who comes into the possession of cigarettes or any other tobacco product in this State as a final user for any purpose other than offering them for sale as a wholesale or retail dealer.]~~
(Deleted by amendment.)

Sec. 9. NRS 370.025 is hereby amended to read as follows:

370.025 "Contraband ~~[cigarettes"]~~ tobacco products" means any:

1. Counterfeit cigarettes; ~~[or]~~
2. **Other counterfeit tobacco product; or**
3. Cigarettes ~~[:]~~ **or other tobacco product:**

(a) Exported from or imported into this State, or mailed, shipped, delivered, sold, exchanged, transported, distributed or held for distribution within the borders of this State by any person in violation of any of the provisions of this chapter; or

(b) In any way held in the possession or constructive possession of any person not authorized under this chapter to possess or constructively possess the cigarettes ~~[:]~~ **or other tobacco product.**

Sec. 10. ~~[NRS 370.0285 is hereby amended to read as follows:~~

~~370.0285 1. "Delivery sale" means any sale of cigarettes [:] or any other tobacco product, whether the seller is located within or outside of the borders of this State, to a consumer in this State for which:~~

~~(a) The purchaser submits the order for the sale by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the Internet or any other on-line service; or~~

~~(b) The cigarettes or other tobacco products are delivered by mail or the use of another delivery service.~~

~~2. For the purpose of this section, any sale of cigarettes or any other tobacco product to a natural person in this State who does not hold a current license as a wholesale or retail dealer constitutes a sale to a consumer.]~~

(Deleted by amendment.)

Sec. 11. ~~[NRS 370.0305 is hereby amended to read as follows:~~

~~370.0305 "License" means a license issued pursuant to NRS 370.001 to 370.430, inclusive, and sections 2 to 6, inclusive, of this act that authorizes the holder to conduct business as a manufacturer or a wholesale or retail dealer.]~~ (Deleted by amendment.)

Sec. 12. ~~[NRS 370.0315 is hereby amended to read as follows:~~

~~370.0315 "Manufacturer" means any person who:~~

~~1. Manufactures, fabricates, assembles, processes or labels a finished cigarette [:] or any other tobacco product; or~~

~~2. Imports, whether directly or indirectly, a finished cigarette or any other tobacco product into the United States for sale or distribution in this State.]~~ (Deleted by amendment.)

Sec. 13. ~~[NRS 370.032 is hereby amended to read as follows:~~

~~370.032—“Place of business” means, for a person engaged in business as:~~

~~1. A wholesale dealer, any location from which cigarettes or any other tobacco products are distributed or where cigarettes or any other tobacco products are warehoused, stored or affixed with stamps; or~~

~~2. A retail dealer, any store, stand, outlet or other location through which cigarettes or any other tobacco products are distributed or sold to a consumer.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 370.033 is hereby amended to read as follows:~~

~~370.033—“Retail dealer” means any person, whether located within or outside of the borders of this State, who sells or distributes cigarettes or any other tobacco product to a consumer within the State.] (Deleted by amendment.)~~

Sec. 15. ~~[NRS 370.044 is hereby amended to read as follows:~~

~~370.044—“Shipping container” means a container in which cigarettes or any other tobacco products are shipped in connection with a delivery sale.] (Deleted by amendment.)~~

Sec. 16. ~~[NRS 370.055 is hereby amended to read as follows:~~

~~370.055—“Wholesale dealer” means:~~

~~1. Any person, whether located within or outside of the borders of this State, who:~~

~~(a) Brings, sends, or causes to be brought or sent into this State any unstamped cigarettes or other tobacco products purchased from the manufacturer or another wholesale dealer; and~~

~~(b) Stores, sells or otherwise disposes of those cigarettes or other tobacco products within the State.~~

~~2. Any person who manufactures or produces cigarettes or any other tobacco products within this State and who sells or distributes them within the State.~~

~~3. Any person, whether located within or outside of the borders of this State, who acquires cigarettes or any other tobacco products solely for the purpose of bona fide resale to retail dealers in this State or to other persons in this State for the purpose of resale only.] (Deleted by amendment.)~~

Sec. 17. ~~[NRS 370.077 is hereby amended to read as follows:~~

~~370.077—All cigarette taxes paid under the provisions of this chapter are direct taxes upon the consumer and are precollected for convenience only. Taxes paid by persons other than the consumer are advances, and shall be added to the selling price of the cigarettes.] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 370.085 is hereby amended to read as follows:~~

~~370.085—The Department shall create and maintain on its Internet website and otherwise make available for public inspection a list of all:~~

~~1. Currently valid licenses and the identity of the licensees holding those licenses; and~~

~~2. Indian tribes on whose reservations or colonies cigarettes or any other tobacco products [made from tobacco] are sold and, pursuant to NRS 370.515, from which the Department does not collect the tax imposed by this~~

~~chapter on such cigarettes or other tobacco products [made from tobacco] sold on the reservations or colonies.~~

~~→ The Department shall update the list at least once each month.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 370.270 is hereby amended to read as follows:~~

~~370.270 1. Every retail dealer making a sale of cigarettes to a customer shall, at the time of the sale, see that each package, packet or container has the Nevada cigarette revenue stamp or metered stamping machine indicia properly affixed.~~

~~2. Every cigarette vending machine operator placing cigarettes in his coin-operated cigarette vending machines for sale to the ultimate consumers shall at the time of placing them in his machine see that each package, packet or container has the Nevada cigarette revenue stamp or metered stamping machine indicia properly affixed.~~

~~3. No unstamped packages, packets or containers of cigarettes may lawfully be accepted or held in the possession of any person, except as authorized by law or regulation. For the purposes of this subsection, "held in possession" means:~~

~~(a) In the actual possession of the person; or~~

~~(b) In the constructive possession of the person when cigarettes are being transported or held for him or for his designee by another person. Constructive possession is deemed to occur at the location of the cigarettes being transported or held.~~

~~4. Any cigarettes found in the possession of any person except a person authorized by law or regulation to possess them, which do not bear indicia of Nevada excise tax stamping, must be seized by the Department or any of its agents, and caused to be stamped by a licensed cigarette dealer, or confiscated and sold by the Department or its agents to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records. If there is no bidder, or in the opinion of the Department the quantity of the cigarettes is insufficient, or for any other reason such disposition would be impractical, the cigarettes must be destroyed or disposed of as the Department may see fit. The proceeds of all sales must be classed as revenues derived under the provisions of NRS 370.001 to 370.430, inclusive[,] and sections 2 to 6, inclusive, of this act.~~

~~5. Any cigarette vending machine in which unstamped cigarettes are found may be so seized and sold to the highest bidder.] (Deleted by amendment.)~~

Sec. 20. ~~[NRS 370.321 is hereby amended to read as follows:~~

~~370.321 1. A person shall not accept an order for a delivery sale unless the person first obtains a license as a retail dealer.~~

~~2. A person who accepts an order for a delivery sale shall comply with all of the requirements of this chapter, NRS 202.2493 and 202.2495 and chapters 370A, 372 and 374 of NRS, and all other laws of this State generally~~

~~applicable to sales of cigarettes or any other tobacco product that occur entirely within this State.} (Deleted by amendment.)~~

~~Sec. 21. [NRS 370.323 is hereby amended to read as follows:~~

~~370.323 1. A person shall not cause the mailing or shipment of cigarettes or any other tobacco product in connection with an order for a delivery sale unless the person accepting the order first:~~

~~(a) Obtains from the prospective purchaser a certification which includes:~~

~~(1) Reliable confirmation that the purchaser is at least 18 years of age; and~~

~~(2) A statement signed by the prospective purchaser in writing and under penalty of perjury which:~~

~~(I) Certifies the prospective purchaser's address and date of birth;~~

~~(II) Confirms that the prospective purchaser understands that signing another person's name to such certification is illegal and that sales of cigarettes or other tobacco products to children under 18 years of age are illegal under the laws of this State; and~~

~~(III) Confirms that the prospective purchaser desires to receive mailings from a tobacco company.~~

~~(b) Makes a good faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to paragraph (a) against any federal or commercially available database established for that purpose.~~

~~(c) Sends to the prospective purchaser, by electronic mail or other means, a notice which meets the requirements of subsection 2 and requests confirmation that the order for the delivery sale was placed by the prospective purchaser.~~

~~(d) Receives from the prospective purchaser confirmation, pursuant to the request described in paragraph (c), that such person placed the order for the delivery sale.~~

~~(e) Receives payment for the delivery sale from the prospective purchaser by a credit or debit card that has been issued in that purchaser's name.~~

~~2. The notice required by paragraph (c) of subsection 1 must include:~~

~~(a) A prominent and clearly legible statement that the sale of cigarettes or other tobacco products to children under 18 years of age is illegal;~~

~~(b) A prominent and clearly legible statement that the sale of cigarettes or other tobacco products is restricted to persons who provide verifiable proof of age in accordance with this section; and~~

~~(c) A prominent and clearly legible statement that sales of cigarettes or other tobacco products are taxable under this chapter, and an explanation of how the tax has been or is to be paid with respect to the delivery sale.~~

~~3. Persons accepting orders for delivery sales may request that prospective purchasers provide their electronic mail addresses.} (Deleted by amendment.)~~

~~Sec. 22. [NRS 370.325 is hereby amended to read as follows:~~

~~370.325—1.—A person who causes the mailing or shipment of cigarettes or other tobacco products in connection with an order for a delivery sale shall:~~

~~(a) Use a method of mailing or shipping that obligates the delivery service to carry out the provisions of NRS 370.329;~~

~~(b) Provide to the delivery service retained to deliver the delivery sale evidence that all taxes levied by this State with respect to the delivery sale have been paid to this State; and~~

~~(c) Include as part of the shipping documents:~~

~~(1) A copy of the retail dealer's license authorizing the delivery sale; and~~

~~(2) A clear and conspicuous statement providing as follows:~~

~~DELIVERY SALE OF CIGARETTES [:] OR OTHER TOBACCO PRODUCTS: NEVADA LAW PROHIBITS SHIPPING TO CHILDREN UNDER 18 YEARS OF AGE AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES.~~

~~2.—A person who accepts an order for a delivery sale and delivers the cigarettes or other tobacco products without using a third-party delivery service shall comply with all the requirements of NRS 370.329 applicable to a delivery service.] (Deleted by amendment.)~~

~~Sec. 23. [NRS 370.327 is hereby amended to read as follows:~~

~~370.327—Not later than the 10th day of each calendar month, each person who has mailed, shipped or otherwise delivered cigarettes or other tobacco products in connection with a delivery sale during the previous calendar month, except a delivery service, shall create and maintain records containing the following information relating to every such delivery sale:~~

~~1.—The name and address of the person to whom the delivery sale was made; and~~

~~2.—The quantity and brands of cigarettes or other tobacco products that were sold in the delivery sale;~~

~~3.—The records required by this section must be provided to the Department at the Department's request and must be retained for not less than 3 years after the date of the applicable transaction unless the Department, in writing, authorizes the records to be removed or destroyed at an earlier time.] (Deleted by amendment.)~~

~~Sec. 24. [NRS 370.329 is hereby amended to read as follows:~~

~~370.329—1.—Except as otherwise provided in subsection 2, a delivery service shall:~~

~~(a) Before delivering a shipping container in connection with a delivery sale:~~

~~(1) Ensure that the shipping documents include the documents required by paragraph (c) of subsection 1 of NRS 370.325; and~~

~~(2) Obtain the evidence required by paragraph (b) of subsection 1 of NRS 370.325 regarding the cigarettes or other tobacco products in the shipping container.~~

~~(b) When delivering a shipping container in connection with a delivery sale, require:~~

~~(1) The purchaser placing the order for the delivery sale, or an adult designated by that purchaser, to sign to accept delivery of the shipping container; and~~

~~(2) Proof, in the form of valid identification that was issued by a governmental entity and bears a photograph of the person who signs to accept delivery of the shipping container, demonstrating:~~

~~(I) That the person is either the addressee or the adult designated by the addressee; and~~

~~(II) If the person appears to be under 27 years of age, that the person is at least 18 years of age.~~

~~2. A delivery service is required to comply with the provisions of subsection 1 only if the delivery service:~~

~~(a) Is obligated to do so under a method of shipping;~~

~~(b) Delivers any container pursuant to shipping documents containing the statement described in paragraph (c) of subsection 1 of NRS 370.325; or~~

~~(c) Delivers any container that the delivery service otherwise has reason to know contains cigarettes or other tobacco products sold pursuant to a delivery sale. (Deleted by amendment.)~~

Sec. 25. NRS 370.405 is hereby amended to read as follows:

370.405 1. It is unlawful for any person knowingly to sell or to possess for the purpose of sale any ~~{counterfeit cigarettes,}~~ **contraband tobacco products**. The presence of ~~{counterfeit cigarettes in a cigarette}~~ **any contraband tobacco products in a** vending machine is prima facie evidence of the purpose to sell those ~~{cigarettes,}~~ **products**.

2. A person who violates any provision of subsection 1 is guilty of:

(a) For the first offense involving ~~{less than 400 cigarettes,}~~ **contraband tobacco products having a value of \$25 or more but less than \$250**, a misdemeanor.

(b) For each subsequent offense involving ~~{less than 400 cigarettes,}~~ **contraband tobacco products having a value of \$25 or more but less than \$250**, a category D felony and shall be punished as provided in NRS 193.130.

(c) For the first offense involving ~~{400 or more cigarettes,}~~ **contraband tobacco products having a value of \$250 or more**, a gross misdemeanor.

(d) For each subsequent offense involving ~~{400 or more cigarettes,}~~ **contraband tobacco products having a value of \$250 or more**, a category C felony and shall be punished as provided in NRS 193.130.

Sec. 26. NRS 370.410 is hereby amended to read as follows:

370.410 Except as otherwise provided in NRS 370.405, any person exporting, importing, possessing or constructively possessing contraband ~~{cigarettes}~~ **tobacco products** is guilty of a gross misdemeanor.

Sec. 27. NRS 370.413 is hereby amended to read as follows:

370.413 In order to obtain evidence of any violation of this chapter, the Department, its agents, and all peace officers and revenue-collecting officers of this State may enter and inspect, without a warrant during normal business hours and with a warrant at any other time:

1. The facilities and records of any manufacturer, wholesale dealer or retail dealer; and

2. Any other place where they may have reason to believe contraband ~~{cigarettes}~~ **tobacco products** are stored, warehoused or kept for sale.

Sec. 28. NRS 370.415 is hereby amended to read as follows:

370.415 1. The Department, its agents, sheriffs within their respective counties and all other peace officers of the State of Nevada shall seize any counterfeit stamps and any contraband ~~{cigarettes}~~ **tobacco products** and machinery used to manufacture contraband ~~{cigarettes,}~~ **tobacco products**, found or located in the State of Nevada.

2. A sheriff or other peace officer who seizes stamps, ~~{cigarettes}~~ **contraband tobacco products** or machinery pursuant to this section shall provide written notification of the seizure to the Department not later than 5 working days after the seizure. The notification must include the reason for the seizure.

3. After consultation with the Department, the sheriff or other peace officer shall transmit the ~~{cigarettes}~~ **contraband tobacco products** to the Department if:

(a) The **contraband tobacco products consist of** cigarettes ~~{, except}~~ **and:**

(1) **Except** for revenue stamps or metered machine impressions being properly affixed as required by this chapter, **the cigarettes** comply with all state and federal statutes and regulations; and

~~{(b)}~~ (2) The Department approves the transmission of the cigarettes ~~{,}~~ ;
or

(b) **The contraband tobacco products consist of any other tobacco products and the Department approves the transmission of the other tobacco products.**

4. Upon **the** receipt of ~~{the cigarettes,}~~ **any:**

(a) **Cigarettes pursuant to subsection 3**, the Department shall dispose of the cigarettes as provided in subsection 4 of NRS 370.270 ~~{,}~~ ; **or**

(b) **Other tobacco products pursuant to subsection 3, the Department shall:**

(1) **Sell the other tobacco products to the highest bidder among the licensed wholesale dealers in this State after due notice to all licensed Nevada wholesale dealers has been given by mail to the addresses contained in the Department's records; or**

(2) **If there is no bidder, or in the opinion of the Department the quantity of the other tobacco products is insufficient, or for any other reason such disposition would be impractical, destroy or dispose of the other tobacco products as the Department may see fit.**

↪ *The proceeds of all sales pursuant to this paragraph must be classed as revenues derived under the provisions of NRS ~~370.450~~ 370.440 to 370.503, inclusive.*

5. The sheriff or other peace officer who seizes any stamps, ~~[cigarettes]~~ **contraband tobacco products** or machinery pursuant to this section shall:

(a) Destroy the stamps and machinery; and

(b) If he does not transmit the ~~[cigarettes]~~ **contraband tobacco products** to the Department, destroy the ~~[cigarettes.]~~ **contraband tobacco products.**

Sec. 29. ~~[NRS 370.450 is hereby amended to read as follows:~~

~~370.450 1. Except as otherwise provided in subsection 2, there is hereby imposed upon the purchase or possession of any other tobacco products [made from tobacco, other than cigarettes,] by a customer in this State a tax of 30 percent of the wholesale tobacco price of those products.~~

~~2. The provisions of subsection 1 do not apply to those products which are:~~

~~(a) Shipped out of the State for sale and use outside the State; or~~

~~(b) Displayed or exhibited at a trade show, convention or other exhibition in this State by a manufacturer or wholesale dealer who is not licensed in this State.~~

~~3. This tax must be collected and paid by the wholesale dealer to the Department, in accordance with the provisions of NRS 370.465, after the sale or distribution of those products by the wholesale dealer. The wholesale dealer is entitled to retain 0.5 percent of the taxes collected to cover the costs of collecting and administering the taxes if the taxes are paid in accordance with the provisions of NRS 370.465.~~

~~4. Any wholesale dealer who sells or distributes any of those products without paying the tax provided for by this section is guilty of a misdemeanor.] (Deleted by amendment.)~~

Sec. 30. ~~[NRS 370.460 is hereby amended to read as follows:~~

~~370.460 It is unlawful for any person to sell or offer to sell any [products made from tobacco, other than cigarettes,] other tobacco product on which the tax is not paid as provided for in NRS 370.450.] (Deleted by amendment.)~~

Sec. 31. ~~[NRS 370.465 is hereby amended to read as follows:~~

~~370.465 1. A wholesale dealer shall, not later than 20 days after the end of each month, submit to the Department a report on a form prescribed by the Department setting forth each sale of [products made from tobacco, other than cigarettes,] any other tobacco product that the wholesale dealer made during the previous month.~~

~~2. Each report submitted pursuant to this section on or after August 20, 2001, must be accompanied by the tax owed pursuant to NRS 370.450 for any other tobacco products [made from tobacco, other than cigarettes,] that were sold by the wholesale dealer during the previous month.~~

~~3. The Department may impose a penalty on a wholesale dealer who violates any of the provisions of this section as follows:~~

~~(a) For the first violation within 7 years, a fine of \$1,000;~~
~~(b) For a second violation within 7 years, a fine of \$5,000;~~
~~(c) For a third or subsequent violation within 7 years, revocation of the license of the wholesale dealer.] (Deleted by amendment.)~~

Sec. 32. ~~[NRS 370.470 is hereby amended to read as follows:~~

~~370.470 A wholesale dealer must obtain from each manufacturer or wholesale dealer who is not licensed in this State itemized invoices of all other tobacco products [made from tobacco, other than cigarettes,] purchased from and delivered by the manufacturer or wholesale dealer who is not licensed in this State. The wholesale dealer must obtain from the manufacturer or wholesale dealer who is not licensed in this State separate invoices for each purchase made. The invoice must include:~~

- ~~1. The name and address of the manufacturer or wholesale dealer who is not licensed in this State;~~
- ~~2. The name and address of the wholesale dealer;~~
- ~~3. The date of the purchase; and~~
- ~~4. The quantity and wholesale tobacco price of those products.] (Deleted by amendment.)~~

Sec. 33. ~~[NRS 370.480 is hereby amended to read as follows:~~

~~370.480 1. Every wholesale dealer must keep at his place of business complete and accurate records for that place of business, including copies of all invoices of any other tobacco products [made from tobacco, other than cigarettes,] which he holds, purchases and delivers, distributes or sells in this State. All records must be preserved for at least 3 years after the date of purchase or after the date of the last entry made on the record.~~

~~2. Every retail dealer shall keep at his place of business complete and accurate records for that place of business, including copies of all itemized invoices or purchases of such products purchased and delivered from wholesale dealers. The invoices must show the name and address of the wholesale dealer and the date of the purchase. All records must be preserved for at least 3 years after the date of the purchase.] (Deleted by amendment.)~~

Sec. 34. ~~[NRS 370.490 is hereby amended to read as follows:~~

~~370.490 1. The Department shall allow a credit of 30 percent of the wholesale tobacco price, less a discount of 0.5 percent for the services rendered in collecting the tax, for any other tobacco products [made from tobacco, other than cigarettes,] upon which the tax has been paid pursuant to NRS 370.450 and that may no longer be sold. If the products have been purchased and delivered, a credit memo of the manufacturer is required for proof of returned merchandise.~~

~~2. A credit must also be granted for any other tobacco products [made from tobacco, other than cigarettes,] shipped from this State and destined for retail sale and consumption outside the State on which the tax has previously been paid. A duplicate or copy of the invoice is required for proof of the sale outside the State.~~

~~3.—A wholesale dealer may claim a credit by filing with the Department the proof required by this section. The claim must be made on a form prescribed by the Department.] (Deleted by amendment.)~~

Sec. 35. ~~[NRS 370.500 is hereby amended to read as follows:~~

~~370.500 1.—All amounts of tax required to be paid to the State pursuant to NRS [370.440] 370.450 to 370.490, inclusive, must be paid to the Department in the form of remittances payable to the Department.~~

~~2.—The Department shall deposit these payments with the State Treasurer for credit to the Account for the Tax on Products Made From Tobacco, Other Than Cigarettes, in the State General Fund.] (Deleted by amendment.)~~

Sec. 36. ~~[NRS 370.501 is hereby amended to read as follows:~~

~~370.501 1.—The governing body of an Indian reservation or Indian colony may impose an excise tax on [any product made from tobacco, other than cigarettes,] other tobacco products sold on the reservation or colony.~~

~~2.—If an excise tax is imposed, the governing body may establish procedures for collecting the excise tax from any retail dealer authorized to do business on the reservation or colony.] (Deleted by amendment.)~~

Sec. 37. ~~[NRS 370.503 is hereby amended to read as follows:~~

~~370.503 1.—Upon proof satisfactory to the Department, a refund must be allowed for the taxes paid pursuant to NRS 370.450, upon any other tobacco products [made from tobacco other than cigarettes,] that are sold to:~~

~~(a) The United States Government for the purposes of the Army, Air Force, Navy or Marine Corps and are shipped to a point within this State to a place which has been lawfully ceded to the United States Government for the purposes of the Army, Air Force, Navy or Marine Corps;~~

~~(b) Veterans' hospitals for distribution or sale to disabled servicemen or ex-servicemen interned therein, but not to civilians or civilian employees;~~

~~(c) Any person if sold and delivered on an Indian reservation or colony where an excise tax has been imposed which is equal to or greater than the rate of the tax imposed pursuant to NRS 370.501; or~~

~~(d) An Indian if sold and delivered on an Indian reservation or colony where no excise tax has been imposed or the excise tax is less than the rate of the tax imposed pursuant to NRS 370.501.~~

~~2.—Any refund must be paid as other claims against the State are paid.] (Deleted by amendment.)~~

Sec. 38. ~~[NRS 370.515 is hereby amended to read as follows:~~

~~370.515—The Department shall not collect the tax imposed by this chapter on cigarettes or other tobacco products [made from tobacco] sold on an Indian reservation or Indian colony if:~~

~~1.—The governing body of the reservation or colony imposes an excise tax pursuant to NRS 370.0751 or 370.501;~~

~~2.—The excise tax imposed is equal to or greater than the tax imposed pursuant to this chapter; and~~

~~3.—The governing body of the colony or reservation submits a copy of the ordinance imposing the excise tax to the Department.] (Deleted by amendment.)~~

~~Sec. 39. [NRS 370.440 and 370.445 are hereby repealed.] (Deleted by amendment.)~~

~~Sec. 40. [This act becomes effective on July 1, 2007.] (Deleted by amendment.)~~

f

~~TEXT OF REPEALED SECTIONS~~

~~370.440—Definitions.—As used in NRS 370.440 to 370.503, inclusive, unless the context otherwise requires:~~

~~1.—"Retail dealer" means any person who is engaged in selling products made from tobacco, other than cigarettes, to customers.~~

~~2.—"Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for consideration of products made from tobacco, other than cigarettes.~~

~~3.—"Ultimate consumer" means a person who purchases a product made from tobacco, other than cigarettes, for his household or personal use and not for resale.~~

~~4.—"Wholesale dealer" means any person who:~~

~~(a) Brings or causes to be brought into this State products made from tobacco, other than cigarettes, purchased from the manufacturer or a wholesale dealer and who stores, sells or otherwise disposes of those products within this State;~~

~~(b) Manufactures or produces products made from tobacco, other than cigarettes, within this State and who sells or distributes those products within this State to other wholesale dealers, retail dealers or ultimate consumers; or~~

~~(c) Purchases products made from tobacco, other than cigarettes, solely for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only.~~

~~5.—"Wholesale price" means:~~

~~(a) Except as otherwise provided in paragraph (b), the established price for which a manufacturer sells a product made from tobacco, other than cigarettes, to a wholesale dealer before any discount or other reduction is made;~~

~~(b) For a product made from tobacco, other than cigarettes, sold to a retail dealer or an ultimate consumer by a wholesale dealer described in paragraph (b) of subsection 4, the established price for which the product is sold to the retail dealer or ultimate consumer before any discount or other reduction is made.~~

~~370.445—Dealer's license required; penalty.~~

~~1.—Except as otherwise provided in subsection 2, a person shall not engage in the business of a wholesale dealer or retail dealer in this State unless he first obtains a license as a wholesale dealer or retail dealer from the~~

~~Department. A person may be licensed as a wholesale dealer and as a retail dealer.~~

~~2. A person who wishes to engage in the business of a retail dealer is not required to obtain a license as a retail dealer pursuant to this section if he is licensed as a retail cigarette dealer pursuant to this chapter.~~

~~3. Any person who violates any of the provisions of this section is guilty of a misdemeanor.~~

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 619.

Bill read second time.

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

Amendment No. 913.

SUMMARY—Creates the Nevada Automobile Theft Authority. (BDR ~~[18-1503]~~ **43-1503**)

AN ACT relating to motor vehicles; creating the Nevada Automobile Theft Authority within the ~~[Division of Insurance of the Department of Business and Industry]~~ **Department of Motor Vehicles**; providing the membership and duties of the Authority; creating the Fund for the Nevada Automobile Theft Authority; authorizing the Authority to award grants of money from the Fund to public agencies for programs to prevent motor vehicle theft; imposing certain reporting requirements on the Authority; imposing a fee on insurers that issue motor vehicle liability insurance in this State for deposit in the Fund; revising the provisions governing the crime of grand larceny of a motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill creates the Nevada Automobile Theft Authority within the ~~[Division of Insurance of the Department of Business and Industry]~~ **Department of Motor Vehicles**. The Authority consists of 13 voting members and the ~~[Commissioner of Insurance]~~ **Director of the Department** who serves as a nonvoting member. Section 8 of this bill describes the duties of the Authority, which include: (1) determining the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State; (2) analyzing various methods of reducing motor vehicle theft in this State; (3) developing and carrying out a plan to reduce motor vehicle theft in this State; and (4) developing and carrying out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority. Section 9 of this bill creates the Fund for the Nevada Automobile Theft Authority in the State Treasury. Section 8 authorizes the Authority to award grants of money from the Fund to public agencies for programs that are designed to prevent motor vehicle theft in this State. Section 10 of this bill imposes on an insurer that

issues policies of motor vehicle liability insurance in this State a semiannual fee of 50 cents for each vehicle insured under such a policy issued by the insurer in this State. The money collected from the fees must be deposited in the Fund. If an insurer fails to pay the required fee, the Commissioner **of Insurance** is authorized to refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State or to impose on the insurer a civil penalty of not more than 120 percent of the amount due, or both.

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

Section 1. Chapter ~~422~~ **481** of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2~~ **1.5** to 10, inclusive, of this act.

Sec. 1.5. As used in sections 1.5 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 and 5 of this act have the meanings ascribed to them in those sections.

Sec. 2. "Authority" means the Nevada Automobile Theft Authority ~~+~~ created by section 6 of this act.

Sec. 3. ~~"Commissioner" means the Commissioner of Insurance.~~
(Deleted by amendment.)

Sec. 4. ~~"Division" means the Division of Insurance of the Department of Business and Industry.~~ (Deleted by amendment.)

Sec. 5. "Fund" means the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.

Sec. 6. 1. The Nevada Automobile Theft Authority is hereby created within the ~~Division~~ Department. The Authority consists of the following 13 voting members:

(a) The ~~Director of the Department of Motor Vehicles,~~ Commissioner of Insurance, or his designee, who is an ex officio member;

(b) The Director of the Department of Public Safety, or his designee, who is an ex officio member;

(c) The sheriff of a county whose population is 400,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;

(d) The sheriff of a county whose population is 100,000 or more but less than 400,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;

(e) The sheriff of a county whose population is less than 100,000, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;

(f) The chief of police of a city whose population is 100,000 or more or the undersheriff of a metropolitan police department which includes a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;

(g) *The chief of police of a city whose population is less than 100,000 or the undersheriff of a metropolitan police department which does not include a city whose population is 100,000 or more, appointed by the Nevada Sheriffs' and Chiefs' Association, or a successor organization;*

(h) *The district attorney of a county whose population is 400,000 or more, appointed by the governing body of the Nevada District Attorneys Association;*

(i) *The district attorney of a county whose population is less than 400,000, appointed by the governing body of the Nevada District Attorneys Association;*

(j) *Two representatives of insurers that write motor vehicle liability insurance in this State, appointed by the Governor; and*

(k) *Two representatives of the general public, appointed by the Governor.*

2. *The ~~Commissioner~~ Director of the Department of Motor Vehicles or his designee shall serve as a nonvoting member of the Authority.*

3. *The Director of the Department of Motor Vehicles shall serve as the Chairman of the Authority for the limited purpose of calling and conducting the initial meeting of the Authority. At its initial meeting and annually thereafter the voting members of the Authority shall elect a Chairman from among the voting members.*

4. *The Authority shall meet regularly at least quarterly and may meet at other times upon the call of the Chairman or a majority of the voting members of the Authority. Any seven voting members of the Authority constitute a quorum for the purpose of voting. A majority vote of the quorum is required to take action with respect to any matter.*

5. *The Authority shall adopt rules for its own management.*

6. *After their initial terms, the appointed members of the Authority shall serve terms of 4 years. An appointed member shall continue to serve on the Authority until his successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments. Any vacancy occurring in the appointed membership of the Authority must be filled in the same manner as the original appointment. There is no limit on the number of terms that a member may serve.*

7. *Members of the Authority:*

(a) *Serve without compensation; and*

(b) *To the extent that money for the administrative expenses of the Authority is available in the Fund, while engaged in the business of the Authority, are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

8. *The members of the Authority who are public employees must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Authority in the most timely manner practicable. The public employees may not be required to make up the time*

they are absent from work to fulfill their obligations as members of the Authority or take annual leave or compensatory time for the absence.

Sec. 7. *An appointed member of the Authority may be removed before the expiration of his term by the Governor if the Governor determines that the member:*

- 1. Did not possess the qualifications to serve on the Authority at the time he was appointed;*
- 2. Has ceased to possess the qualifications to serve on the Authority;*
- 3. Will be unable to perform competently his duties for a substantial part of his remaining term because of illness or disability; or*
- 4. Has been absent from more than one-half of the regularly scheduled meetings of the Authority during a calendar year and the absences have not been excused by a majority vote of the Authority.*

Sec. 8. *1. To the extent of available existing resources, the ~~Division~~ Department shall provide:*

- (a) Administrative support;*
- (b) Equipment; and*
- (c) Office space,*

↪ as is necessary for the Authority to carry out its duties.

2. To the extent that money for the administrative expenses of the Authority is available in the Fund, the Authority may:

- (a) Provide for any administrative support, equipment and office space that is not provided by the ~~Division~~ Department; and*
- (b) Employ such staff members as it determines necessary, including, without limitation, an Executive Director. Such staff members serve at the pleasure of the Authority. If the Authority employs an Executive Director, his salary must not exceed \$75,000.*

3. The Authority may:

- (a) Apply for and accept grants and gifts for use in carrying out its duties; and*
- (b) Accept donations of goods and services for use in carrying out its duties, including, without limitation, the services of natural persons, office and secretarial assistance, printing and mailing services, and office equipment, facilities and supplies.*

4. The Authority shall:

- (a) Determine the scope of the problem of motor vehicle theft in this State and in various political subdivisions of this State;*
- (b) Analyze various methods of reducing motor vehicle theft in this State;*
- (c) Develop and carry out a plan to reduce motor vehicle theft in this State; and*
- (d) Develop and carry out a plan for funding the activities of the Authority, including, without limitation, the receipt of grants and gifts for the use of the Authority.*

5. *The Authority may award grants of money from the Fund to public agencies for the purpose of establishing, maintaining and supporting programs that are designed to prevent motor vehicle theft in this State, including, without limitation:*

(a) Financial support for law enforcement relating to, and prosecution of, motor vehicle theft, including, without limitation, equipment, work facilities and personnel for programs that are designed to increase the effectiveness of such law enforcement and prosecution.

(b) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

6. *Grants of money awarded by the Authority pursuant to subsection 5 must be used to supplement and not replace money that would otherwise be expended by the recipient of the grant for the prevention of motor vehicle theft.*

7. *The Authority shall, on or before December 31, 2009, and each year thereafter, submit a report concerning its activities during the immediately preceding fiscal year to the:*

(a) Governor;

(b) Secretary of State;

(c) State Library and Archives Administrator; and

(d) Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.

8. *In addition to the reports required by subsection 7, the Authority shall, on or before February 15, 2011, and each odd-numbered year thereafter, submit a consolidated report concerning its activities during the immediately preceding 2 fiscal years to the Director of the Legislative Counsel Bureau for posting on the public website of the Legislature on the Internet and for transmittal to the:*

(a) Speaker of the Assembly;

(b) Majority Leader of the Senate;

(c) Legislative Commission;

(d) Assembly Standing Committee on Judiciary;

(e) Senate Standing Committee on Judiciary;

(f) Assembly Standing Committee on Transportation; and

(g) Senate Standing Committee on Transportation and Homeland Security.

Sec. 9. 1. *The Fund for the Nevada Automobile Theft Authority is hereby created in the State Treasury.*

2. *The Authority shall administer the Fund.*

3. *All public and private money received for the use of the Authority must be deposited in the Fund.*

4. *The money in the Fund may only be used to pay the administrative expenses of the Authority and to carry out the provisions of sections 6 to 10, inclusive, of this act. Not more than 10 percent of the money in the*

Fund in any fiscal year may be used to pay the administrative expenses of the Authority.

5. The Authority shall cause an audit to be made of the Fund every 2 years. The audit must be conducted by the Audit Division of the Legislative Counsel Bureau. A copy of the audit must be submitted to the Governor and the Legislative Commission.

Sec. 10. 1. Each insurer shall pay a semiannual fee of 50 cents for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State.

2. The fee for a vehicle becomes due and nonrefundable upon the acceptance by the insurer of any portion of the premium charged for the policy.

3. If an insurer chooses to collect the fee from its insureds, the insurer may include the fee on its billing statements for the payment of premiums and indicate the purpose of the fee.

4. Each insurer shall, on or before January 31 and July 31 of each year, pay to the Authority for deposit in the Fund the fees due pursuant to this section as follows:

(a) The payment due on or before January 31 must cover all vehicles that are insured by the insurer ~~during any portion of the period between July 1 to December 31, inclusive,~~ on October 31 of the immediately preceding calendar year.

(b) The payment due on or before July 31 must cover all vehicles that are insured by the insurer ~~during any portion of the period between January 1 to June 30, inclusive,~~ on April 30 of the calendar year in which the payment is due.

~~4-4~~ *5. If an insurer fails to pay the fee required by this section on or before the date due, the Authority shall notify the Commissioner of Insurance of the nonpayment. Upon receiving notice of an insurer's failure to pay the fee, the Commissioner may, in accordance with the provisions of NRS 680A.190, refuse to continue, suspend or revoke the insurer's certificate of authority to transact insurance in this State, or impose a civil penalty of not more than 120 percent of the amount due, or both. The insurer shall pay the civil penalty together with the amount of fees due to the Commissioner, who shall deposit the civil penalty and fees in the Fund.*

~~5-1~~ *6. As used in this section:*

(a) "Insurer" has the meaning ascribed to it in NRS 679A.100.

(b) "Vehicle" does not include any vehicle with a declared gross weight in excess of 26,000 pounds or any combination of vehicles with a gross combination weight rating in excess of 26,000 pounds.

Sec. 11. ~~NRS 232.805 is hereby amended to read as follows:~~

~~232.805 — As used in NRS 232.805 to 232.840, inclusive, and sections 2 to 10, inclusive, of this act, unless the context otherwise requires [:~~

~~1. "Commissioner" means the Commissioner of Insurance.~~

~~2. "Division" means the Division of Insurance of the Department of Business and Industry.] the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.]~~
(Deleted by amendment.)

Sec. 12. NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in ~~subsection 3,~~ **this section**, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. ***A person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.***

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle to pay restitution.

Sec. 13. Section 12 of this act is hereby amended to read as follows:

Sec. 12. NRS 205.228 is hereby amended to read as follows:

205.228 1. A person who intentionally steals, takes and carries away, drives away or otherwise removes a motor vehicle owned by another person commits grand larceny of a motor vehicle.

2. Except as otherwise provided in this section, a person who commits grand larceny of a motor vehicle is guilty of a category C felony and shall be punished as provided in NRS 193.130. A person who is convicted of grand larceny of a motor vehicle and who has twice previously been convicted of grand larceny of a motor vehicle must not be released on probation or granted a suspension of his sentence.

3. If the prosecuting attorney proves that the value of the motor vehicle involved in the grand larceny is \$2,500 or more, the person who committed the grand larceny of the motor vehicle is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order the person who committed the grand larceny of the motor vehicle ~~to~~ :

(a) To pay restitution ~~to~~; and

(b) To pay a civil penalty of ~~[\$100]~~ \$500 to the Nevada Automobile Theft Authority for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.

Sec. 14. The members of the Nevada Automobile Theft Authority created by section 6 of this act must be appointed by their respective appointing authorities as soon as practicable after July 1, 2008, as follows:

1. The members appointed pursuant to paragraphs (c), (d) and (e) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2012.

2. The members appointed pursuant to paragraphs (f) and (g) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2011.

3. The members appointed pursuant to paragraphs (h) and (i) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2010.

4. The members appointed pursuant to paragraphs (j) and (k) of subsection 1 of section 6 of this act must be appointed to initial terms that expire on June 30, 2009.

Sec. 15. The provisions of NRS 205.228, as amended by section 12 of this act, apply to offenses committed before October 1, 2007, for the purpose of determining whether a person is subject to the provisions of subsection 2 of NRS 205.228, as amended by section 12 of this act.

Sec. 16. 1. Notwithstanding the provisions of section 10 of this act:

(a) The initial fee due from an insurer pursuant to section 10 of this act:

(1) Is payable on or before July 31, 2008, and must cover all vehicles that are insured by the insurer ~~[during any portion of the period between January 1, 2008, to June 30, 2008, inclusive,]~~ **on April 30, 2008;** and

(2) Must be paid to the Commissioner of Insurance for deposit in the Fund for the Nevada Automobile Theft Authority created by section 9 of this act.

(b) The Commissioner of Insurance may take any action specified in subsection ~~44~~ **5** of section 10 of this act if the fee is not paid on or before July 31, 2008.

2. The ~~[Commissioner of Insurance]~~ **Director of the Department of Motor Vehicles** may, on behalf of the Nevada Automobile Theft Authority, exercise all powers and duties of the Authority to the extent necessary until such time as the initial meeting of the Authority is held pursuant to section 6 of this act.

Sec. 17. Notwithstanding any provision of law to the contrary, an insurer that is required pursuant to section 10 of this act to pay a fee for each vehicle insured under a policy of motor vehicle liability insurance issued by the insurer in this State may begin collecting the fee from its insureds under those policies on ~~[January 1,]~~ **April 30, 2008.**

Sec. 18. 1. This section and sections 12 and 15 of this act become effective on October 1, 2007.

2. Section 17 of this act becomes effective on January 1, 2008.

3. Sections 1 to 11, inclusive, 13, 14 and 16 of this act become effective on July 1, 2008.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 3.

Bill read second time.

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

Amendment No. 918.

AN ACT relating to public employees; allowing the surviving spouse of ~~of~~ **certain** deceased police ~~officer or firefighter who was killed in the line of duty~~ **officers and firefighters** to continue to receive death benefits under industrial insurance after the surviving spouse remarries; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if the death of an employee is caused by an injury by accident arising out of and in the course of employment covered by state laws on industrial insurance, the surviving spouse of the deceased employee may receive a compensation known as a death benefit. (NRS 616C.505) The death benefit presently ends upon the surviving spouse's death or remarriage. (NRS 616C.505) This bill allows the surviving spouse of a deceased police officer or firefighter who ~~was killed in the line of duty~~ **died while actively employed as a police officer or firefighter** to continue to receive certain compensation under the death benefit even if the surviving spouse remarries. **This bill also allows the surviving spouse of certain retired police officers or firefighters to receive this benefit.**

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in this section, if the surviving spouse of a deceased police officer or firefighter who ~~was killed in the line of duty~~ **died while actively employed as a police officer or firefighter** is entitled to be paid compensation pursuant to subsection 2 of NRS 616C.505 ~~or~~ NRS 617.453, 617.455, 617.457, 617.485 or 617.487, the surviving spouse:*

(a) Must be paid that compensation until the death of the surviving spouse, whether or not the surviving spouse remarries; and

(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 in one lump sum upon remarriage.

2. A surviving spouse of a deceased police officer or firefighter who was retired from employment as a police officer or firefighter at the time of death is entitled to receive compensation to the same extent and in the same manner as a surviving spouse specified in subsection 1 if:

(a) The police officer or firefighter retired because of the injury or occupational disease for which compensation is paid to the surviving spouse pursuant to this section; and

(b) The death of the police officer or firefighter was the direct and proximate result of the injury or occupational disease.

3. If the surviving spouse of a deceased police officer or firefighter specified in subsection 1 or 2 becomes the spouse of another employee or retiree who thereafter dies under circumstances that would otherwise entitle the surviving spouse to be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee, the surviving spouse:

(a) Must not be paid compensation pursuant to subsection 2 of NRS 616C.505 or NRS 617.453, 617.455, 617.457, 617.485 or 617.487 with respect to the other employee; and

(b) Shall be deemed to have predeceased the other employee for the purposes of chapters 616A to 616D, inclusive, and 617 of NRS.

~~{3. The}~~

4. Except as otherwise provided in subsections 1 and 2, the provisions of this section ~~are~~

~~(a) Do not apply to the surviving spouse of a deceased police officer or firefighter if the death of that police officer or firefighter is made compensable only by chapter 617 of NRS; and~~

~~(b) Do~~ do not affect any compensation payable under chapter 617 of NRS.

~~4. As used in this section, "killed in the line of duty" means killed as a direct and proximate result of injuries sustained:~~

~~(a) If the person is on duty:~~

~~(1) While en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement or emergency service attention; or~~

~~(2) From a hostile act;~~

~~(b) If the person is off duty, is a police officer and is using the tools of his trade, while en route to or from, or otherwise responding to, an emergency, a call for service, a request for assistance or a situation requiring immediate law enforcement attention; or~~

~~(c) During training that is approved by his employer and is scheduled or identified as training before the training occurs.~~

Sec. 2. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer,

within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit ~~[-]~~ and is payable as follows:

1. In addition to any other compensation payable pursuant to chapters 616A to 616D, inclusive, of NRS, burial expenses are payable in an amount not to exceed \$5,000. When the remains of the deceased employee and the person accompanying the remains are to be transported to a mortuary or mortuaries, the charge of transportation must be borne by the insurer.

2. ~~[-]~~ ***Except as otherwise provided in section 1 of this act, to*** the surviving spouse of the deceased employee, $66 \frac{2}{3}$ percent of the average monthly wage is payable until his death or remarriage, with 2 years' compensation payable in one lump sum upon remarriage.

3. In the event of the subsequent death of the surviving spouse:

(a) Each surviving child of the deceased employee must share equally the compensation theretofore paid to the surviving spouse but not in excess thereof, and it is payable until the youngest child reaches the age of 18 years.

(b) Except as otherwise provided in subsection 11, if the children have a guardian, the compensation they are entitled to receive may be paid to the guardian.

4. Upon the remarriage of a surviving spouse with children:

(a) The surviving spouse must be paid 2 years' compensation in one lump sum and further benefits must cease; and

(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of $66 \frac{2}{3}$ percent of the average monthly wage.

↪ The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of section 1 of this act apply to the surviving spouse.

5. If there are any surviving children of the deceased employee under the age of 18 years, but no surviving spouse, then each such child is entitled to his proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage for his support.

6. Except as otherwise provided in subsection 7, if there is no surviving spouse or child under the age of 18 years, there must be paid:

(a) To a parent, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, $33 \frac{1}{3}$ percent of the average monthly wage.

(b) To both parents, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, $66 \frac{2}{3}$ percent of the average monthly wage.

(c) To each brother or sister until he or she reaches the age of 18 years, if wholly dependent for support upon the deceased employee at the time of the injury causing his death, his proportionate share of $66 \frac{2}{3}$ percent of the average monthly wage.

7. The aggregate compensation payable pursuant to subsection 6 must not exceed $66 \frac{2}{3}$ percent of the average monthly wage.

8. In all other cases involving a question of total or partial dependency:

(a) The extent of the dependency must be determined in accordance with the facts existing at the time of the injury.

(b) If the deceased employee leaves dependents only partially dependent upon his earnings for support at the time of the injury causing his death, the monthly compensation to be paid must be equal to the same proportion of the monthly payments for the benefit of persons totally dependent as the amount contributed by the deceased employee to the partial dependents bears to the average monthly wage of the deceased employee at the time of the injury resulting in his death.

(c) The duration of compensation to partial dependents must be fixed in accordance with the facts shown, but may not exceed compensation for 100 months.

9. Compensation payable to a surviving spouse is for the use and benefit of the surviving spouse and the dependent children, and the insurer may, from time to time, apportion such compensation between them in such a way as it deems best for the interest of all dependents.

10. In the event of the death of any dependent specified in this section before the expiration of the time during which compensation is payable to him, funeral expenses are payable in an amount not to exceed \$5,000.

11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS, except that after the first annual review required pursuant to NRS 159.176, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years. As used in this subsection, "incompetent" has the meaning ascribed to it in NRS 159.019.

12. Except as otherwise provided in paragraphs (a) and (b), the entitlement of any child to receive his proportionate share of compensation pursuant to this section ceases when he dies, marries or reaches the age of 18 years. A child is entitled to continue to receive compensation pursuant to this section if he is:

(a) Over 18 years of age and incapable of supporting himself, until such time as he becomes capable of supporting himself; or

(b) Over 18 years of age and enrolled as a full-time student in an accredited vocational or educational institution, until he reaches the age of 22 years.

13. As used in this section, "surviving spouse" means a surviving husband or wife who was married to the employee at the time of the employee's death.

Sec. 3. The amendatory provisions of sections 1 and 2 of this act do not apply to a surviving spouse of a deceased police officer or firefighter if the surviving spouse is remarried before October 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 5.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 934.

AN ACT relating to cancer; requiring the State Board of Pharmacy to establish the Cancer Drug Donation Program; requiring the Board to adopt regulations to carry out the Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a system for the reporting and analyzing of information relating to cancer and establishes task forces on prostate cancer and cervical cancer. (Chapter 457 of NRS)

Section 6 of this bill requires the State Board of Pharmacy to establish the Cancer Drug Donation Program. The Program will distribute and dispense cancer drugs donated to the Program to cancer patients. Section 6 also authorizes persons to donate cancer drugs at any pharmacy, medical facility, health clinic or provider of health care that participates in the Program. The donated drugs must be in the original, unopened and sealed packages and must not be adulterated or misbranded. Section 9 of this bill requires the Board to adopt regulations to carry out the Program. Section 10 of this bill provides immunity from civil liability for damages caused by ~~any act or omission~~ **certain acts or omissions** of a person **other than a pharmacy, medical facility, health clinic or provider of health care** who donates a cancer drug to the Program. ~~or who accepts, distributes or dispenses a cancer drug donated to the Program. Section 10 also provides immunity from civil and criminal liability to a manufacturer of a cancer drug that is donated, accepted, distributed or dispensed pursuant to the Program.~~

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

Section 1. Chapter 457 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Cancer drug" means a prescription drug that is used to treat:*

- 1. Cancer or its side effects; or*
- 2. The side effects of a prescription drug that is used to treat cancer or its side effects.*

↪ The term includes medical supplies used in the administration of a cancer drug.

Sec. 4. *"Medical Facility" has the meaning ascribed to it in NRS 449.0151.*

Sec. 5. *"Program" means the Cancer Drug Donation Program established pursuant to section 6 of this act.*

Sec. 5.5. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 6. *1. The State Board of Pharmacy shall establish and maintain the Cancer Drug Donation Program to accept, distribute and dispense cancer drugs donated to the Program.*

2. Any person may donate a cancer drug to the Program. A cancer drug may be donated at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program.

3. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program may charge a patient who receives a cancer drug a handling fee in accordance with the regulations adopted by the State Board of Pharmacy pursuant to section 9 of this act.

4. A cancer drug may be accepted, distributed or dispensed pursuant to the Program only if the cancer drug:

(a) Is in its original, unopened, sealed and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;

(b) Is not adulterated or misbranded; and

(c) Bears an expiration date that is later than 30 days after the drug is donated.

5. A cancer drug donated to the Program may not be:

(a) Resold; or

(b) Designated by the donor for a specific person.

6. The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.

Sec. 7. *A cancer drug donated for use in the Program may only be dispensed:*

1. By a pharmacist who is registered pursuant to chapter 639 of NRS;

2. Pursuant to a prescription written by a person who is authorized to write prescriptions; and

3. To a person who is eligible to receive cancer drugs dispensed pursuant to the Program.

Sec. 8. A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:

1. Shall comply with all applicable state and federal laws concerning the storage, distribution and dispensing of the cancer drugs; and

2. May distribute a cancer drug donated to the Program to another pharmacy, medical facility, health clinic or provider of health care for use in the Program.

Sec. 9. The State Board of Pharmacy shall adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act. The regulations must prescribe, without limitation:

1. The requirements for the participation of pharmacies, medical facilities, health clinics and providers of health care in the Program, including, without limitation:

(a) A requirement that each provider of health care who participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer; and

(b) A requirement that each medical facility that participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer;

2. The criteria for determining the eligibility of persons to receive cancer drugs dispensed pursuant to the Program, including, without limitation, a requirement that a person must sign up with the State Board of Pharmacy on a form prescribed by the Board to be eligible to receive cancer drugs dispensed pursuant to the Program;

3. The categories of cancer drugs that may be accepted for distribution or dispensing pursuant to the Program; and

4. The maximum fee that a pharmacy, medical facility, health clinic or provider of health care may charge to distribute or dispense cancer drugs pursuant to the Program.

Sec. 10. ~~11.~~ Any person other than a pharmacy, medical facility, health clinic or provider of health care who donates ~~1, accepts, distributes or dispenses~~ a cancer drug in accordance with the provisions of sections 2 to 10, inclusive, of this act, and the regulations adopted pursuant to section 9 of this act, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in donating ~~1, accepting, distributing or dispensing~~ the cancer drug.

~~2. A manufacturer of a cancer drug is immune from civil or criminal liability for any claim arising due to an injury, death or a loss to person or property, resulting from the use of the cancer drug that was donated, accepted, distributed or dispensed pursuant to the Program, if the manufacturer acted without malicious intent, including, without limitation,~~

~~liability for failure to transfer or communicate product or consumer information concerning the cancer drug or the expiration date of the cancer drug.]~~

Sec. 11. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 53.

Bill read second time.

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

Amendment No. 917.

AN ACT relating to deceptive trade practices; providing that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS) Section 1 of this bill provides that advertising or conducting a live musical performance or production through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group constitutes a deceptive trade practice. Sections 2-12 of this bill amend various sections of NRS to include necessary references to the new deceptive trade practice established in section 1.

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

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

1. Except as otherwise provided in subsection 2, a person engages in a "deceptive trade practice" if the person advertises or conducts a live musical performance or production in this State through the use of a false, deceptive or misleading affiliation, connection or association between a performing group and a recording group.

2. A person does not engage in a "deceptive trade practice" pursuant to subsection 1 if:

(a) The performing group is the authorized registrant and owner of a federal service mark ~~for~~ comprising in whole or dominant part the mark or name of that group registered in the United States Patent and Trademark Office;

(b) *At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;*

(c) *The live musical performance or production is identified in all advertising and promotion as a salute or tribute and the name of the performing group is not so closely related or similar to that used by the recording group that it would tend to confuse or mislead the public;*

(d) *The advertising does not relate to a live musical performance or production taking place in this State; or*

(e) *The performance or production is expressly authorized in writing by the recording group.*

3. *As used in this section:*

(a) *"Performing group" means a vocal or instrumental group seeking to use the name of another group that has previously released a commercial sound recording under that name.*

(b) *"Person" means the performing group or its promoter, manager or agent. The term does not include the performance venue or its owners, managers or operators unless the performance venue ~~owns~~ has a controlling or majority ownership interest in and produces the performing group.*

(c) *"Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group.*

(d) *"Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds regardless of the nature of the material object, such as a cassette tape, compact disc or phonograph album, in which the sounds are embodied.*

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

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

Sec. 3. NRS 598.0953 is hereby amended to read as follows:

598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and section 1 of this act* are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.

Sec. 4. NRS 598.0955 is hereby amended to read as follows:

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

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

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

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

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

Sec. 5. NRS 598.0963 is hereby amended to read as follows:

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

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

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

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

Sec. 6. NRS 598.0967 is hereby amended to read as follows:

598.0967 1. The Commissioner and the Director, in addition to other powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, may issue subpoenas to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry and prescribe such forms and adopt such regulations

as may be necessary to administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~{ }~~ , **and section 1 of this act**. Such regulations may include, without limitation, provisions concerning the applicability of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act** to particular persons or circumstances.

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

Sec. 7. NRS 598.0971 is hereby amended to read as follows:

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

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

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

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

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

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

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

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

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;
(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

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

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

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

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

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

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

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

Sec. 8. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 9. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and section 1 of this act*, but such

additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 10. NRS 598.0999 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the

district attorney of any county may bring an action in the name of the State of Nevada seeking:

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

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

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

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

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

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

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

Sec. 11. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, **and section 1 of this act**, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining

claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 12. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, “consumer fraud” means:

- (a) An unlawful act as defined in NRS 119.330;
- (b) An unlawful act as defined in NRS 205.2747;
- (c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;
- (d) An act prohibited by NRS 482.351; or
- (e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive ~~+~~, **and section 1 of this act.**

3. If the claimant is the prevailing party, the court shall award him:

- (a) Any damages that he has sustained; and
- (b) His costs in the action and reasonable attorney’s fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 13. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblymen Conklin, Mabey, and Anderson.

Amendment adopted.

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

Senate Bill No. 103.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 935.

AN ACT relating to unclaimed property; adopting the Uniform Unclaimed Property Act; repealing conflicting provisions of the existing Uniform Disposition of Unclaimed Property Act; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, Nevada has enacted the Uniform Disposition of Unclaimed Property Act. The existing Uniform Act establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS)

This bill replaces the existing Uniform Act with the updated and revised Uniform Unclaimed Property Act (1995). This bill retains many of the provisions of the existing Uniform Act. However, this bill reorganizes certain provisions from the existing Uniform Act to eliminate redundancy, it updates certain provisions to reflect holdings by the United States Supreme Court and it adds certain provisions regarding application and enforcement of the Act.

Under the existing Uniform Act, certain tangible property such as the contents of safe-deposit boxes and intangible property such as traveler's checks, money orders, stocks and monies owed by insurance companies, retirement plans and businesses are considered unclaimed by their owners after a certain period of abandonment. (NRS 120A.160-120A.240) Section 8 of this bill reorganizes into a single section all of the periods of abandonment that are set forth in separate sections in the existing Uniform Act.

The existing Uniform Act does not contain the provisions in sections 10 and 18 of this bill which codify certain rules of priority established by **the** United States Supreme Court when more than one state seeks custody over unclaimed property. (*Delaware v. New York*, 507 U.S. 490, 113 S. Ct. 1550 (1993); *Pennsylvania v. New York*, 407 U.S. 206, 92 S. Ct. 2075 (1972); *Texas v. New Jersey*, 379 U.S. 674, 85 S. Ct. 626 (1965))

The existing Uniform Act does not contain the provisions in section 12 of this bill which clarify the State's burden of proof when it is trying to show the existence and amount of unclaimed property in the possession of certain holders and which recognizes several affirmative defenses that may be established by those holders.

The existing Uniform Act does not contain the provisions in section 25 of this bill which require holders of unclaimed property and issuers of traveler's checks and money orders to maintain records of certain information for a designated number of years.

The existing Uniform Act contains criminal penalties for persons who do not comply with the provisions of the Act. (NRS 120A.440) This bill eliminates those criminal penalties, and section 28 of this bill adds provisions which impose civil monetary penalties on holders of unclaimed property who fail to report, pay or deliver the unclaimed property to the State.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. ***"Domicile" means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.***

Sec. 3. ***"Mineral" means gas, oil, coal and other gaseous, liquid and solid hydrocarbons, oil shale, cement material, sand, gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resource or any other substance defined as a mineral by the law of this State.***

Sec. 4. ***"Mineral proceeds" means amounts payable for the extraction, production or sale of minerals or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes, without limitation, amounts payable:***

1. For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

2. For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

3. Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

Sec. 5. "Property" means tangible property described in section 9 of this act or a fixed and certain interest in intangible property that is held, issued or owed in the course of a holder's business or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes without limitation, property that is referred to as or evidenced by:

1. Money or a check, draft, deposit, interest or dividend;

2. A credit balance, customer's overpayment, ~~gift certificate,~~ security deposit, refund, credit memorandum, unpaid wage, mineral proceeds or unidentified remittance;

3. Stock or other evidence of ownership of an interest in a business association or financial organization;

4. A bond, debenture, note or other evidence of indebtedness;

5. Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

6. An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

7. An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

Sec. 6. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 7. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 8. 1. Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the

apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) ~~[[A gift certificate, 3 years after December 31 of the year in which the certificate was sold, but if redeemable in merchandise only, the amount abandoned is deemed to be 60 percent of the certificate's face value;~~

~~[[Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;~~

~~[[(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;~~

~~[[(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;~~

~~[[(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;~~

~~[[(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;~~

~~[[(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;~~

~~[[(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in~~

the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

~~##(n)~~ *(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.*

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

Sec. 9. Tangible property held in a safe-deposit box or other safekeeping depository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law are presumed abandoned if the property remains unclaimed by the owner for more than 3 years after expiration of the lease or rental period on the box or other depository.

Sec. 10. *Except as otherwise provided in this chapter or by other statute of this State, property that is presumed abandoned, whether located in this or another state, is subject to the custody of this State if:*

1. *The last known address of the apparent owner, as shown on the records of the holder, is in this State;*

2. *The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;*

3. *The records of the holder do not reflect the last known address of the apparent owner and it is established that:*

(a) *The last known address of the person entitled to the property is in this State; or*

(b) *The holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;*

4. *The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide for the escheat or custodial taking of the property and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;*

5. *The last known address of the apparent owner, as shown on the records of the holder, is in a foreign country and the holder is domiciled in this State or is a government or governmental subdivision, agency or instrumentality of this State;*

6. *The transaction out of which the property arose occurred in this State, the holder is domiciled in a state that does not provide for the escheat or custodial taking of the property and the last known address of the apparent owner or other person entitled to the property is unknown or is in a state that does not provide for the escheat or custodial taking of the property; or*

7. *The property is a traveler's check or money order purchased in this State or the issuer of the traveler's check or money order has its principal place of business in this State and the issuer's records show that the instrument was purchased in a state that does not provide for the escheat or custodial taking of the property or do not show the state in which the instrument was purchased.*

Sec. 11. *A holder may deduct from property presumed abandoned a charge imposed by reason of the owner's failure to claim the property within a specified time only if there is a valid and enforceable written contract between the holder and the owner under which the holder may impose the charge and the holder regularly imposes the charge, which is not regularly reversed or otherwise cancelled. The amount of the deduction must not exceed \$5 per month.*

Sec. 12. *A record of the issuance of a check, draft or similar instrument is prima facie evidence of an obligation. In claiming property from a holder who is also the issuer, the Administrator's burden of proof as to the existence and amount of the property and its abandonment is satisfied by showing issuance of the instrument and passage of the requisite period of abandonment. Defenses of payment, satisfaction, discharge and want of consideration are affirmative defenses that must be established by the holder.*

Sec. 13. 1. *A holder of property presumed abandoned shall make a report to the Administrator concerning the property.*

2. *The report must be verified and must contain:*

(a) *A description of the property;*

(b) *Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of \$50 or more;*

(c) *In the case of items valued under \$50, a statement of the aggregate value of all items valued under \$50; ~~the~~*

(d) *In the case of an amount of \$50 or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;*

(e) *In the case of property held in a safe-deposit box or other safekeeping depository, an indication of the place where it is held and where it may be inspected by the Administrator and any amounts owing to the holder;*

(f) *The date, if any, on which the property became payable, demandable or returnable and the date of the last transaction with the apparent owner with respect to the property; and*

(g) *Other information that the Administrator by regulation prescribes as necessary for the administration of this chapter.*

3. *If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.*

4. *The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to an insurance company must be filed before May 1 of each year for the calendar year next preceding.*

5. *The holder of property presumed abandoned shall send written notice to the apparent owner, not more than 120 days or less than 60 days before filing the report, stating that the holder is in possession of property subject to this chapter, if:*

(a) *The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;*

(b) The claim of the apparent owner is not barred by a statute of limitations; and

(c) The value of the property is \$50 or more.

6. Before the date for filing the report, the holder of property presumed abandoned may request the Administrator to extend the time for filing the report. The Administrator may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

7. The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with subsection 5.

8. A person reporting 15 or more items of property pursuant to this section shall file the report electronically in lieu of on paper.

Sec. 14. *1. Except for property held in a safe-deposit box or other safekeeping depository, upon filing the report required by section 13 of this act, the holder of property presumed abandoned shall pay, deliver or cause to be paid or delivered to the Administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe-deposit box or other safekeeping depository may not be delivered to the Administrator until 60 days after filing the report required by section 13 of this act.*

2. If the property reported to the Administrator is a security or security entitlement under NRS 104.8101 to 104.8511, inclusive, the Administrator is an appropriate person to make an endorsement, instruction or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with NRS 104.8101 to 104.8511, inclusive.

3. If the holder of property reported to the Administrator is the issuer of a certificated security, the Administrator has the right to obtain a replacement certificate pursuant to NRS 104.8405, but an indemnity bond is not required.

4. An issuer, the holder and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and must be indemnified against claims of any person in accordance with section 16 of this act.

Sec. 15. *1. The Administrator shall publish a notice not later than November 30 of the year next following the year in which abandoned property has been paid or delivered to the Administrator. The notice must be published in a newspaper of general circulation in the county of this State in which is located the last known address of any person named in the notice. If a holder does not report an address for the apparent owner or*

the address is outside this State, the notice must be published in a county that the Administrator reasonably selects. The advertisement must be in a form that, in the judgment of the Administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:

(a) The name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;

(b) The city or town in which the last known address of each person appearing to be the owner of the property is located, if a city or town is set forth in the report filed by the holder;

(c) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the Administrator; and

(d) A statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the Administrator.

2. The Administrator is not required to advertise the name and city or town of an owner of property having a total value less than \$50 or information concerning a traveler's check, money order or similar instrument.

Sec. 16. 1. For the purposes of this section, payment or delivery is made in "good faith" if:

(a) Payment or delivery was made in a reasonable attempt to comply with this chapter;

(b) The holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and

(c) There is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.

2. Upon payment or delivery of property to the Administrator, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the Administrator in good faith is relieved of all liability arising thereafter with respect to the property.

3. A holder who has paid money to the Administrator pursuant to this chapter may subsequently make payment to a person reasonably appearing to the holder to be entitled to payment. Upon a filing by the holder of proof of payment and proof that the payee was entitled to the payment, the Administrator shall promptly reimburse the holder for the payment without imposing a fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a traveler's check or money order, the holder must be reimbursed upon filing proof that the instrument was duly presented and that payment was made to a person who reasonably appeared to be entitled to payment. The holder must be reimbursed for

payment made even if the payment was made to a person whose claim was barred under subsection 1 of section 23 of this act.

4. A holder who has delivered property other than money to the Administrator pursuant to this chapter may reclaim the property if it is still in the possession of the Administrator, without paying any fee or other charge, upon filing proof that the apparent owner has claimed the property from the holder.

5. The Administrator may accept a holder's affidavit as sufficient proof of the holder's right to recover money and property under this section.

6. If a holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the Administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the Administrator.

7. Property removed from a safe-deposit box or other safekeeping depository is received by the Administrator subject to the holder's right to be reimbursed for the cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The Administrator shall reimburse the holder out of the proceeds remaining after deducting the expense incurred by the Administrator in selling the property.

Sec. 17. If property other than money is delivered to the Administrator under this chapter, the owner is entitled to receive from the Administrator any income or gain realized or accruing on the property at or before liquidation or conversion of the property into money.

Sec. 18. 1. After property has been paid or delivered to the Administrator under this chapter, another state may recover the property if:

(a) The property was paid or delivered to the custody of this State because the records of the holder did not reflect a last known location of the apparent owner within the borders of the other state and the other state establishes that the apparent owner or other person entitled to the property was last known to be located within the borders of that state and under the laws of that state the property has escheated or become subject to a claim of abandonment by that state;

(b) The property was paid or delivered to the custody of this State because the laws of the other state did not provide for the escheat or custodial taking of the property and under the laws of that state subsequently enacted the property has escheated or become subject to a claim of abandonment by that state;

(c) The records of the holder were erroneous in that they did not accurately identify the owner of the property and the last known location of the owner within the borders of another state and under the laws of that

state the property has escheated or become subject to a claim of abandonment by that state;

(d) The property was subjected to custody by this State under subsection 6 of section 10 of this act and under the laws of the state of domicile of the holder the property has escheated or become subject to a claim of abandonment by that state; or

(e) The property is a sum payable on a traveler's check, money order or similar instrument that was purchased in the other state and delivered into the custody of this State under subsection 7 of section 10 of this act, and under the laws of the other state the property has escheated or become subject to a claim of abandonment by that state.

2. A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the Administrator, who shall decide the claim within 90 days after it is presented. The Administrator shall allow the claim upon determining that the other state is entitled to the abandoned property under subsection 1.

3. The Administrator shall require another state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim to the property.

Sec. 19. 1. A person, excluding another state, claiming property paid or delivered to the Administrator may file a claim on a form prescribed by the Administrator and verified by the claimant.

2. Within 90 days after a claim is filed, the Administrator shall allow or deny the claim and give written notice of the decision to the claimant. If the claim is denied, the Administrator shall inform the claimant of the reasons for the denial and specify what additional evidence is required before the claim will be allowed. The claimant may then file a new claim with the Administrator or maintain an action under section 20 of this act.

3. Except as otherwise provided in subsection 5, within 30 days after a claim is allowed, the property or the net proceeds of a sale of the property must be delivered or paid by the Administrator to the claimant, together with any dividend, interest or other increment to which the claimant is entitled under NRS 120A.360 and section 17 of this act.

4. A holder who pays the owner for property that has been delivered to the State and which, if claimed from the Administrator by the owner would be subject to an increment under NRS 120A.360 and section 17 of this act may recover from the Administrator the amount of the increment.

5. The Administrator may require a person with a claim in excess of \$2,000 to furnish a bond and indemnify the State against any loss resulting from the approval of such claim if the claim is based upon an original instrument, including, without limitation, a certified check or a stock certificate or other proof of ownership of securities, which cannot be furnished by the person with the claim.

Sec. 20. A person aggrieved by a decision of the Administrator or whose claim has not been acted upon within 90 days after its filing may

maintain an original action to establish the claim in the district court, naming the Administrator as a defendant. If the aggrieved person establishes the claim in an action against the Administrator, the court may award the claimant reasonable attorney's fees.

Sec. 21. 1. *The Administrator may decline to receive property reported under this chapter which the Administrator considers to have a value less than the expenses of notice and sale.*

2. *A holder, with the written consent of the Administrator and upon conditions and terms prescribed by the Administrator, may report and deliver property before the property is presumed abandoned. Property so delivered must be held by the Administrator and is not presumed abandoned until it otherwise would be presumed abandoned under this chapter.*

Sec. 22. *If the Administrator determines after investigation that property delivered under this chapter has no substantial commercial value, the Administrator may destroy or otherwise dispose of the property at any time. An action or proceeding may not be maintained against the State or any officer or employee or against the holder for or on account of an act of the Administrator under this section, except for intentional misconduct or malfeasance.*

Sec. 23. 1. *The expiration, before or after October 1, 2007, of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute or court order, does not preclude the property from being presumed abandoned or affect a duty to file a report or to pay or deliver or transfer property to the Administrator as required by this chapter.*

2. *An action or proceeding may not be maintained by the Administrator to enforce this chapter in regard to the reporting, delivery or payment of property more than 10 years after the holder specifically identified the property in a report filed with the Administrator or gave express notice to the Administrator of a dispute regarding the property. In the absence of such a report or other express notice, the period of limitation is tolled. The period of limitation is also tolled by the filing of a report that is fraudulent.*

Sec. 24. 1. *The Administrator may require a person who has not filed a report, or a person who the Administrator believes has filed an inaccurate, incomplete or false report, to file a verified report in a form specified by the Administrator. The report must state whether the person is holding property reportable under this chapter, describe property not previously reported or as to which the Administrator has made inquiry, and specifically identify and state the amounts of property that may be in issue.*

2. *The Administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The Administrator may conduct the examination even if the person believes he is not in possession of any property that must be reported, paid or delivered under this chapter. The*

Administrator may contract with any other person to conduct the examination on behalf of the Administrator.

3. The Administrator at reasonable times may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association or financial organization that is the holder of property presumed abandoned if the Administrator has given the notice required by subsection 2 to both the association or organization and the agent at least 90 days before the examination.

4. Documents and working papers obtained or compiled by the Administrator, or the Administrator's agents, employees or designated representatives, in the course of conducting an examination are confidential and are not public records, but the documents and papers may be:

(a) Used by the Administrator in the course of an action to collect unclaimed property or otherwise enforce this chapter;

(b) Used in joint examinations conducted with or pursuant to an agreement with another state, the Federal Government or any other governmental subdivision, agency or instrumentality;

(c) Produced pursuant to subpoena or court order; or

(d) Disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subdivision, if the other state is bound to keep the documents and papers confidential.

5. If an examination of the records of a person results in the disclosure of property reportable under this chapter, the Administrator may assess the cost of the examination against the holder at the rate of \$200 a day for each examiner or a greater amount that is reasonable and was incurred, but the assessment may not exceed the value of the property found to be reportable. The cost of an examination made pursuant to subsection 3 may be assessed only against the business association or financial organization.

6. If, after October 1, 2007, a holder does not maintain the records required by section 25 of this act and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the Administrator may require the holder to report and pay to the Administrator the amount the Administrator reasonably estimates, on the basis of any available records of the holder or by any other reasonable method of estimation, should have been but was not reported.

Sec. 25. 1. Except as otherwise provided in subsection 2, a holder required to file a report under section 13 of this act shall maintain the records containing the information required to be included in the report for 7 years after the holder files the report, unless a shorter period is provided by regulation of the Administrator.

2. A business association or financial organization that sells, issues or provides to others for sale or issue in this State, traveler's checks, money orders or similar instruments other than third-party bank checks, on which

the business association or financial organization is directly liable, shall maintain a record of the instruments while they remain outstanding, indicating the State and date of issue, for 3 years after the holder files the report.

Sec. 26. The Administrator may maintain an action in this State or another state to enforce this chapter. The court may award reasonable attorney's fees to the prevailing party.

Sec. 27. 1. The Administrator may enter into an agreement with another state to exchange information relating to abandoned property or its possible existence. The agreement may permit the other state, or another person acting on behalf of a state, to examine records as authorized in section 24 of this act. The Administrator by regulation may require the reporting of information needed to enable compliance with an agreement made under this section and prescribe the form.

2. The Administrator may join with another state to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

3. At the request of another state, the Attorney General of this State may maintain an action on behalf of the other state to enforce, in this State, the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the Attorney General in maintaining the action.

4. The Administrator may request that the attorney general of another state or another attorney commence an action in the other state on behalf of the Administrator. With the approval of the Attorney General of this State, the Administrator may retain any other attorney to commence an action in this State on behalf of the Administrator. This State shall pay all expenses, including attorney's fees, in maintaining an action under this subsection. With the Administrator's approval, the expenses and attorney's fees may be paid from money received under this chapter. The Administrator may agree to pay expenses and attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Any expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

Sec. 28. 1. A holder who fails to report, pay or deliver property within the time prescribed by this chapter shall pay to the Administrator interest at the rate of 18 percent per annum on the property or value thereof from the date the property should have been reported, paid or delivered.

2. Except as otherwise provided in subsection 3, a holder who fails to report, pay or deliver property within the time prescribed by this chapter or fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil

penalty of \$200 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$5,000.

3. A holder who willfully fails to report, pay or deliver property within the time prescribed by this chapter or willfully fails to perform other duties imposed by this chapter shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day the report, payment or delivery is withheld or the duty is not performed, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

4. A holder who makes a fraudulent report shall pay to the Administrator, in addition to interest as provided in subsection 1, a civil penalty of \$1,000 for each day from the date a report under this chapter was due, up to a maximum of \$25,000, plus 25 percent of the value of any property that should have been but was not reported.

5. The Administrator for good cause may waive, in whole or in part, interest under subsection 1 and penalties under subsections 2 and 3, and shall waive penalties if the holder acted in good faith and without negligence.

Sec. 29. 1. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property that is presumed abandoned, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the Administrator. This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the Administrator's denial of a claim.

2. An agreement by an owner, the primary purpose of which is to locate, deliver, recover or assist in the recovery of property, is enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner and states the value of the property before and after the fee or other compensation has been deducted.

3. If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

4. An agreement covered by this section must not provide for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement. An agreement that provides for compensation that is more than 10 percent of the total value of the property that is the subject of the agreement is unenforceable except by the owner. An owner who has agreed to pay compensation that is more than 10 percent of the total value of the property that is the subject of the agreement, or the Administrator on behalf of the owner, may maintain an action to reduce the compensation to an amount that does not exceed 10

percent of the total value of the property. The court may award reasonable attorney's fees to an owner who prevails in the action.

5. This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than that the compensation is more than 10 percent of the total value of the property that is the subject of the agreement.

Sec. 30. NRS 120A.010 is hereby amended to read as follows:

120A.010 This chapter may be cited as the Uniform ~~Disposition of~~ Unclaimed Property Act.

Sec. 31. NRS 120A.020 is hereby amended to read as follows:

120A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 120A.025 to 120A.120, inclusive, *and sections 2 to 7, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 32. NRS 120A.040 is hereby amended to read as follows:

120A.040 "Business association" means a corporation, ~~other than a public corporation, a~~ joint-stock company, investment company, partnership, unincorporated association, joint venture, limited-liability company, business trust, *trust company, land bank, safe-deposit company or other safekeeping depository*, financial organization, insurance company, mutual fund or utility, or another business entity consisting of one or more persons, whether or not for profit.

Sec. 33. NRS 120A.070 is hereby amended to read as follows:

120A.070 "Financial organization" means a savings and loan association, *building and loan association, savings bank, industrial bank, bank*, banking organization or credit union.

Sec. 34. NRS 120A.100 is hereby amended to read as follows:

120A.100 "Owner" means a *person who has a legal or equitable interest in property subject to this chapter or the person's legal representative. The term includes, without limitation, a* depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, *and* a creditor, claimant or payee in the case of other ~~intangible property, or a person having a legal or equitable interest in property subject to this chapter, or his legal representative.~~ *property.*

Sec. 35. NRS 120A.110 is hereby amended to read as follows:

120A.110 "Person" means a natural person, business association, *financial organization*, estate, trust, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

Sec. 36. NRS 120A.120 is hereby amended to read as follows:

120A.120 "Utility" means any person who owns or operates ~~within this State~~ for public use any plant, equipment, *real* property, franchise or license for the transmission of communications or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam or gas.

Sec. 37. NRS 120A.130 is hereby amended to read as follows:

120A.130 This chapter shall be ~~{so construed as}~~ **applied and construed** to effectuate its general purpose to make uniform the law ~~{of those states which}~~ **with respect to the subject matter of the Uniform Unclaimed Property Act among the states that** enact it.

Sec. 38. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to gaming chips or tokens which are not redeemed at an establishment.

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value.

Sec. 39. NRS 120A.360 is hereby amended to read as follows:

120A.360 1. Except as otherwise provided in subsections 4, 5 and 6, all abandoned property other than money delivered to the Administrator under this chapter must, within 2 years after the delivery, be sold by the Administrator to the highest bidder at public sale in whatever manner affords, in his judgment, the most favorable market for the property. ~~{involved.}~~ The Administrator may decline the highest bid and reoffer the property for sale if he considers the ~~{price}~~ bid **to be** insufficient.

2. Any sale held under this section must be preceded by a single publication of notice, ~~{thereof}~~ at least ~~{2 weeks in advance of the}~~ **3 weeks before** sale, in a newspaper of general circulation in the county ~~{where}~~ **in which** the property is to be sold.

3. The purchaser **of property** at any sale conducted by the Administrator pursuant to this chapter ~~{is vested with title to}~~ **takes** the property ~~{purchased, free from}~~ **free of** all claims of the owner or ~~{prior}~~ **previous** holder and of all persons claiming through or under them. The Administrator shall execute all documents necessary to complete the transfer of ~~{title.}~~ **ownership.**

4. The Administrator need not offer any property for sale if ~~{, in his opinion,}~~ **he considers that** the probable cost of the sale ~~{exceeds the value of the property.}~~ **will exceed the proceeds of the sale.** The Administrator may destroy or otherwise dispose of such property or may transfer it to:

(a) The Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society, upon its written request, if the property has, in the opinion of the requesting institution, historical, artistic or literary value and is worthy of preservation;

(b) A genealogical library, upon its written request, if the property has genealogical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society; or

(c) A veterans' or military museum, upon its written request, if the property has military or military historical value and is not wanted by the Nevada Museum and Historical Society, the Nevada State Museum or the Nevada Historical Society.

➡ An action may not be maintained by any person against the holder of the property because of that transfer, disposal or destruction.

5. ***Securities delivered to the Administrator pursuant to this chapter may be sold by the Administrator at any time after the delivery.*** Securities listed on an established stock exchange must be sold at the prevailing price for that security on the exchange at the time of sale. Other securities not listed on an established stock exchange may be sold:

(a) Over the counter at the prevailing price for that security at the time of sale; or

(b) By any other method the Administrator deems acceptable.

6. The Administrator shall hold property that was removed from a safe-deposit box or other safekeeping repository for 1 year after the date of the delivery of the property to the Administrator, unless that property is a will or a codicil to a will, in which case the Administrator shall hold the property for 10 years after the date of the delivery of the property to the Administrator. If no claims are filed for the property within that period ***and the Administrator determines that the probable cost of the sale of the property will exceed the proceeds of the sale,*** it may be destroyed.

Sec. 40. NRS 120A.370 is hereby amended to read as follows:

120A.370 1. There is hereby created in the State Treasury the Abandoned Property Trust ~~{Fund}~~ **Account.**

2. All money received by the Administrator under this chapter, including the proceeds from the sale of abandoned property, must be deposited by the Administrator in the State Treasury for credit to the Abandoned Property Trust ~~{Fund}~~ **Account.**

3. Before making a deposit, the Administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of an insurance company, its number, the name of the company and the amount due. The record must be available for public inspection at all reasonable business hours.

4. The Administrator may pay from money available in the Abandoned Property Trust ~~{Fund}~~ **Account :**

(a) Any costs in connection with the sale of abandoned property.

(b) Any costs of mailing and publication in connection with any abandoned property.

(c) Reasonable service charges.

(d) Any costs incurred in examining the records of a holder and in collecting the abandoned property.

(e) Any valid claims filed pursuant to this chapter.

5. ~~{At}~~ ~~{By}~~ ***Except as otherwise provided in NRS 120A.360, by*** the end of each fiscal year, the amount of the balance in the ***Abandoned Property Trust*** ~~{Fund}~~ **Account** in excess of \$100,500 must be transferred. The first \$7,600,000 each year must be transferred to the Millennium Scholarship Trust Fund created by NRS 396.926. The remainder must be transferred to the State General Fund, but remains subject to the valid claims of holders

pursuant to ~~[NRS 120A.340 or owners pursuant to NRS 120A.380.]~~ **section 16 of this act and owners pursuant to section 19 of this act, except that a claim of a holder or owner may not be paid from money transferred to the Millennium Scholarship Trust Fund pursuant to this section.**

6. If there is an insufficient amount of money in the Abandoned Property Trust ~~[Fund]~~ **Account** to pay any cost or charge pursuant to subsection 4, the State Board of Examiners may, upon the application of the Administrator, authorize a temporary transfer from the State General Fund to the Abandoned Property Trust ~~[Fund]~~ **Account** of an amount necessary to pay those costs or charges. The Administrator shall repay the amount of the transfer as soon as sufficient money is available in the Abandoned Property Trust ~~[Fund]~~ **Account.**

Sec. 41. NRS 32.020 is hereby amended to read as follows:

32.020 1. In any receivership proceeding instituted in which a dividend has been declared and ordered paid to creditors, any dividend which remains unclaimed for 3 years reverts to the general fund of the estate and must be applied as follows:

(a) To the payment of costs and expenses of the administration of the estate and receivership.

(b) To a new dividend distributed to creditors whose claims have been allowed but not paid in full. After those claims have been paid in full, the balance is presumed abandoned under **chapter 120A of NRS**. ~~[120A.210.]~~

2. This section applies to any receivership proceeding which may be brought, and includes any bank, banking corporation, corporation, copartnership, company, association or natural person.

Sec. 42. NRS 607.170 is hereby amended to read as follows:

607.170 1. The Labor Commissioner may prosecute a claim for wages and commissions or commence any other action to collect wages, commissions and other demands of any person who is financially unable to employ counsel in a case in which, in the judgment of the Labor Commissioner, the claim for wages or commissions or other action is valid and enforceable in the courts.

2. In all matters relating to wages or commissions, the Labor Commissioner may, in accordance with the provisions of NRS 607.210, subpoena any person whose appearance is required to adjust and settle claims or other actions for wages or commissions before bringing suit in those matters, and the Labor Commissioner may effect reasonable compromises of those matters.

3. The Labor Commissioner or his Deputy may maintain a commercial account with any bank or credit union within this State for the deposit of money collected for claims for wages or commissions. The money must be promptly paid to the person entitled thereto. At the end of each calendar year, any unclaimed money in the commercial account which has been a part of the account for 1 year or more is presumed abandoned under **chapter 120A of NRS**. ~~[120A.220.]~~

Sec. 43. NRS 120A.030, 120A.095, 120A.150, 120A.160, 120A.170, 120A.180, 120A.185, 120A.190, 120A.200, 120A.210, 120A.220, 120A.225, 120A.230, 120A.240, 120A.250, 120A.260, 120A.270, 120A.280, 120A.300, 120A.310, 120A.320, 120A.330, 120A.340, 120A.350, 120A.380, 120A.390, 120A.400, 120A.405, 120A.410, 120A.420, 120A.430, 120A.440 and 120A.450 are hereby repealed.

Sec. 44. 1. Except as otherwise provided in this section:

(a) The provisions of this act are intended to substitute the Uniform Unclaimed Property Act (1995), in the form enacted by this act, in a continuing way for the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007.

(b) If there is a conflict between the provisions of this act and the provisions of the Uniform Disposition of Unclaimed Property Act, as that act existed in chapter 120A of NRS before October 1, 2007, the provisions of this act control.

2. The provisions of this act do not repeal, abrogate or supersede the provisions of section 15 of chapter 347, Statutes of Nevada 2001, at page 1652, to the extent that those provisions remain applicable to the property described in that section.

3. An initial report filed under the provisions of this act for property which was not required to be reported before October 1, 2007, but which is subject to the provisions of this act, must include all items of property that would have been presumed abandoned during the 10-year period next preceding October 1, 2007, as if the provisions of this act had been in effect during that period.

4. The provisions of this act do not relieve a holder of a duty that arose before October 1, 2007, to report, pay or deliver property. Except as otherwise provided in subsection 2 of section 23 of this act, a holder who did not comply with the law in effect before October 1, 2007, is subject to the applicable provisions for enforcement and penalties which then existed, which are continued in effect for the purpose of this section.

5. Any administrative regulations which were adopted under the provisions of chapter 120A of NRS before October 1, 2007, and which do not conflict with the provisions of this act, remain in force until amended or repealed by the Administrator pursuant to NRS 120A.140.

LEADLINES OF REPEALED SECTIONS

120A.030 "Banking organization" defined.

120A.095 "Intangible property" defined.

120A.150 Periods of limitation not bar for purposes of chapter; limitation on actions by Administrator.

120A.160 Property held by business associations.

120A.170 Unclaimed money held by insurance companies.

120A.180 Deposits and advance payments held by utilities.

120A.185 Unclaimed wages held by business.

120A.190 Intangible interest or money held or owing by business associations.

120A.200 Intangible personal property distributable in course of dissolution.

120A.210 Intangible personal property held in fiduciary capacity.

120A.220 Intangible personal property held by court, public corporation or officer, or governmental entity.

120A.225 Intangible personal property held by intermediary in another state.

120A.230 Intangible personal property not otherwise covered by chapter.

120A.240 Reciprocity for property presumed abandoned or escheated under laws of another state.

120A.250 Annual report of property presumed abandoned: Filing; contents; verification.

120A.260 Communication with owner before filing annual report.

120A.270 Reports by business association not holding property presumed abandoned.

120A.280 Notice to owners of abandoned property.

120A.300 Charge upon dormant accounts; limitation upon rate.

120A.310 Charge upon unclaimed property.

120A.320 Payment or delivery of abandoned property to Administrator; delivery of duplicate certificate or other evidence of ownership to Administrator.

120A.330 Administrator may decline to receive abandoned property.

120A.340 Relief from liability by payment or delivery; reimbursement or indemnification of holder.

120A.350 Interest, dividends and other increments accruing before liquidation or conversion to money.

120A.380 Claim for property delivered to State.

120A.390 Determination of claim.

120A.400 Commencement of action in district court to establish claim.

120A.405 Agreements to recover property presumed abandoned.

120A.410 Reciprocity.

120A.420 Examination of records of holders of abandoned property.

120A.430 Action to enforce payment or delivery of abandoned property to Administrator; award of costs and attorney's fees; imposition of civil penalty.

120A.440 Criminal penalties.

120A.450 Interest.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 111.

Bill read second time.

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

Amendment No. 915.

AN ACT relating to public utilities; clarifying the applicability of ~~certain provisions to cooperative associations or nonprofit corporations or associations and other~~ **the Utility Environmental Protection Act to certain utility facilities owned by** suppliers of utility services that provide utility services only to ~~their own members~~ **the members of those suppliers**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a ~~cooperative association or nonprofit corporation or association and every other~~ supplier of utility services that provides utility services only to its own members is subject to the jurisdiction, control and regulation of the Public Utilities Commission of Nevada for certain limited purposes. (NRS 704.675) Section 1 of this bill clarifies that ~~such entities are~~, **if such a supplier of utility services is not jointly owned by certain other entities and is subject to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., a utility facility owned by the supplier is exempt from the provisions of the Utility Environmental Protection Act, which controls the permitting process for the construction of new utility facilities. (NRS 704.820-704.900)**

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

Section 1. NRS 704.865 is hereby amended to read as follows:

704.865 1. A person, other than a local government, shall not commence to construct a utility facility in the State without first having obtained a permit therefor from the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, does not constitute construction of a utility facility. Any facility, with respect to which a permit is required, must thereafter be constructed, operated and maintained in conformity with the permit and any terms, conditions and modifications contained therein. A permit may only be issued pursuant to NRS 704.820 to 704.900, inclusive. Any authorization relating to a utility facility granted under other laws administered by the Commission constitutes a permit under those sections if the requirements of those sections have been complied with in the proceedings leading to the granting of the authorization.

2. A permit may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

3. NRS 704.820 to 704.900, inclusive, do not apply to any utility facility:

(a) For which, before July 1, 1971, an application for the approval of the facility has been made to any federal, state, regional or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in NRS 704.890;

(b) For which, before July 1, 1971, a governmental agency has approved the construction of the facility and the person has incurred indebtedness to finance all or part of the cost of the construction; ~~or~~

(c) Over which an agency of the Federal Government has exclusive jurisdiction ~~[-]~~; *or*

(d) ~~Owned by a cooperative association, nonprofit corporation, association or~~ *supplier of services described in NRS 704.673 or 704.675* ~~[-]~~ *that:*

(1) Is not jointly owned by or with an entity that is not such a supplier of services; and

(2) Is subject to the provisions of the National Environmental Policy Act of 1969, 42 U.S.C 4321 et seq.

4. Any person intending to construct a utility facility excluded from NRS 704.820 to 704.900, inclusive, pursuant to paragraph (a) or (b) of subsection 3 may elect to waive the exclusion by delivering notice of its waiver to the Commission. NRS 704.820 to 704.900, inclusive, thereafter apply to each utility facility identified in the notice from the date of its receipt by the Commission.

Sec. 2. This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 157.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 889.

AN ACT relating to public guardians; allowing a board of county commissioners to pay the necessary expenses incurred by a public guardian during a guardianship; allowing a board of county commissioners to establish a revolving fund to pay for the necessary expenses incurred by a public guardian during a guardianship; requiring a public guardian to reimburse the county from the assets of the ward for any expenses paid by the county; requiring boards of county commissioners to establish the office of public guardian; revising provisions governing the appointment or designation of a public guardian; revising the requirements governing eligibility to utilize a public guardian; revising provisions concerning attorneys retained by a public guardian; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 9 of this bill changes existing law, which currently allows a board of county commissioners to establish the office of public guardian, by requiring the board of county commissioners of each county to establish the office of public guardian. (NRS 253.150) Section 9 provides a board of county commissioners with four alternative methods to meet this requirement: (1) appoint a public guardian for a term of 4 years; (2) designate

a county officer to serve as ex officio public guardian; (3) except in a county whose population is 100,000 or more (currently Clark and Washoe Counties), contract with a private professional guardian to act as public guardian; or (4) contract with the board of county commissioners of a neighboring county which is in the same judicial district to use the neighboring county's public guardian as the public guardian of the county. After the board of county commissioners has designated or appointed a public guardian, section 3 of this bill allows the board to establish regulations for the form of reports and budgets made by the public guardian and to review reports and budgets submitted to the board by the public guardian. Section 10 of this bill requires the public guardian of a county to appoint one or more deputies to perform the duties of his office in his absence. (NRS 253.175)

Existing law provides that a resident of the State is eligible to have the public guardian appointed as his guardian if there is no individual able and willing to serve as his guardian or if the resident does not have assets sufficient to pay for a private guardian. (NRS 253.200) Section 11 of this bill eliminates inability to pay for a private guardian as a condition for eligibility for having the public guardian appointed as guardian ~~1. Under section 11, an individual may have the public guardian appointed as his temporary, permanent or general guardian if~~ **but requires that** the individual is a resident of the county in which guardianship proceedings are filed. Section 11 also requires that the public guardian or deputy public guardian receive a copy of any petition for the appointment of the public guardian as a guardian before such a petition is filed.

Section 2 of this bill allows a county to advance to the public guardian the necessary expenses incurred or to be incurred by the public guardian during a guardianship. However, if a county provides such an advance, the public guardian must reimburse the county from the assets of the estate of the ward as soon as, and to the extent that, those assets become available. The board of county commissioners may establish a revolving fund to be used to pay for advances to the public guardian of necessary expenses or must pay such advances from the county general fund.

Existing law allows a public guardian to retain an attorney to assist him when necessary for the proper administration of a guardianship but requires that such employment be rotated among the attorneys practicing in the county who are qualified and willing to accept such employment. (NRS 253.215) In addition to such rotation of employment, section 12 of this bill allows the public guardian to retain one attorney to assist him or to obtain the assistance of the district attorney's office if the board of county commissioners approves such assistance.

Section 13 of this bill clarifies that a public guardian is not required to hire or be licensed as a private investigator to investigate the financial status, assets and personal history of a person for whom he has been appointed as guardian. (NRS 253.220)

Under existing law, the reasonable value of the services rendered by the public guardian without cost to a ward must be allowed as a claim against the estate of the ward upon the death of the ward. (NRS 253.240) Section 14 of this bill allows claims for such services against a ward's estate before the death of the ward upon approval of a court.

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

Section 1. Chapter 253 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A public guardian may file with the board of county commissioners a request for an advance of money to pay necessary expenses incurred, or to be incurred, by the public guardian during a guardianship. The board may approve or deny the request. If the board approves the request, the board shall determine the amount to be advanced and advance that amount to the public guardian.*

2. The board of county commissioners of any county may establish a revolving fund to be used to provide advances to the public guardian pursuant to subsection 1. If the board has established a revolving fund pursuant to this subsection, the board shall pay any advance approved pursuant to subsection 1 from the revolving fund to the extent that there is sufficient money in the revolving fund to pay the advance. After the money in the revolving fund has been exhausted, the board shall pay any advance, or any part of an advance, approved by the board from the general fund of the county. If the board has not established a revolving fund pursuant to this subsection, the board shall pay any advance approved pursuant to subsection 1 from the general fund of the county.

3. The public guardian must reimburse the county for any advance provided pursuant to subsection 1 from the assets of the estate of the ward as soon as, and to the extent that, the assets become available. If the board of county commissioners has established a revolving fund pursuant to subsection 2, the board shall deposit in the revolving fund the money obtained from a reimbursement provided pursuant to this subsection. If the board has not established a revolving fund pursuant to subsection 2, the board shall deposit in the general fund of the county the money obtained from a reimbursement provided pursuant to this subsection.

Sec. 3. *1. The board of county commissioners may:*

(a) Establish regulations for the form of any reports or budgets made by the public guardian.

(b) Review reports or budgets submitted to the board by the public guardian.

2. The board of county commissioners may at any time investigate any guardianship for which the public guardian has been appointed.

Sec. 4. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) ~~{The financial status of any proposed ward for whom he has been requested to serve as guardian to determine whether he is eligible to serve in that capacity.}~~

~~(2)}~~ The financial status of any decedent for whom he has been requested to serve as administrator to determine the assets and liabilities of the estate.

~~{{(3)}}~~ (2) Whether there is any qualified person who is willing and able to serve as ~~{guardian for a ward or}~~ administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(b) ~~{Petition the court for appointment as guardian of the person and estate of any ward if, after investigation, the public administrator finds that he is eligible to serve. Except as otherwise provided in subsection 2, this petition for appointment as guardian must be made by the public administrator regardless of the amount of assets in the guardianship estate if no other qualified person having a prior right is willing and able to serve.}~~

~~(c)}~~ Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of a person dying intestate if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

~~{{(d)}}~~ (c) Upon court order, act as {:

(1) ~~Guardian of the person and estate of an adult ward; or~~

(2) ~~Administrator}~~ **administrator** of the estate of a person dying intestate,

~~{→}~~ regardless of the amount of assets in the estate of the ~~{ward or}~~ decedent if no other qualified person is willing and able to serve.

2. The public administrator is not eligible to serve as a guardian of the person and estate of a ward ~~{if the board of county commissioners of his county has established the office of public guardian pursuant to NRS 253.150,}~~ unless the board has designated the public administrator as ex officio public guardian.

Sec. 5. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require ~~{any proposed ward or}~~ any spouse, parent, child or other kindred of the ~~{proposed ward}~~ **decedent** to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

Sec. 6. NRS 253.044 is hereby amended to read as follows:

253.044 In a county whose population is less than 100,000, the board of county commissioners may, after reviewing each case, direct the public administrator or any other suitable person to:

1. Investigate ~~the~~:

~~(a) The financial status of any proposed ward for whom a request to serve as guardian has been received to determine whether there is a need for a guardian to be appointed and whether the public administrator or other suitable person designated by the board is able and eligible to serve in that capacity.~~

~~(b) Whether~~ **whether** there is any qualified person who is willing and able to serve as ~~guardian for a ward or~~ administrator of the estate of an intestate decedent, and to determine whether there is a need for ~~a guardian or~~ an administrator and whether the public administrator or other suitable person designated by the board is eligible to serve in that capacity.

2. ~~Petition the court for appointment as guardian of the person or as guardian of the person and estate of any ward if, after investigation, the public administrator or other suitable person designated by the board finds that there is a need for such an appointment and that he is able and eligible to serve. If no other qualified person having a prior right is willing and able to serve, the public administrator or other suitable person designated by the board shall petition for appointment as guardian regardless of the amount of assets in the estate of the proposed ward.~~

3. ~~Petition the court for letters of administration of the estate of a person dying intestate if, after investigation, the public administrator or other suitable person designated by the board finds that there is no other qualified person having a prior right who is willing and able to serve.~~

~~4.~~ 3. File an affidavit pursuant to NRS 253.0403 to administer the estate if, after investigation, the public administrator or other suitable person designated by the board finds that the gross value of the decedent's property situated in this State does not exceed \$20,000.

~~5.~~ 4. Act, upon order of a court, as ~~the~~:

~~(a) Guardian of the person and estate of an adult ward; or~~

~~(b) Administrator~~ **administrator** of the estate of a person dying intestate, ~~regardless of the amount of assets in the estate of the ward or decedent if no other qualified person is willing and able to serve.~~

Sec. 7. NRS 253.0445 is hereby amended to read as follows:

253.0445 In an investigation conducted pursuant to subsection 1 of NRS 253.044, a public administrator or other suitable person designated by the board of county commissioners may:

1. Require any ~~proposed ward or any~~ spouse, parent, child or other kindred of the ~~proposed ward~~ **decedent** to give any information and to execute any written requests or authorizations necessary to provide the public administrator or other suitable person designated by the board with access to records, otherwise confidential, needed to evaluate the public administrator's or other suitable person's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

Sec. 8. NRS 253.091 is hereby amended to read as follows:

253.091 1. The board of county commissioners shall:

(a) Establish regulations for the form of any reports made by the public administrator.

(b) Review reports submitted to the board by the public administrator.

(c) Investigate any complaint received by the board against the public administrator.

2. The board of county commissioners may at any time investigate any ~~guardianship or~~ estate for which the public administrator is serving as ~~guardian or~~ administrator.

Sec. 9. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of ~~any county may~~ **each county shall** establish the office of public guardian.

2. The board of county commissioners ~~may~~ **shall**:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment; ~~or~~

(b) Designate an elected or appointed county officer as ex officio public guardian ~~+~~;

(c) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

(d) Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. *As used in this section, "private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The term does not include:*

(a) A governmental agency.

(b) A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

(c) A trust company, as defined in NRS 669.070.

(d) A court-appointed attorney licensed to practice law in this State.

Sec. 10. NRS 253.175 is hereby amended to read as follows:

253.175 1. A public guardian ~~may~~ **shall** appoint **one or more** deputies to perform the duties of his office ~~+~~ **in his absence**. A deputy so appointed may transact all official business relating to the office of the public guardian to the same extent as the public guardian, except that the deputy is not authorized to employ or terminate the employment of subordinates in the

office. Before entering upon the discharge of his duties, each deputy must take and subscribe to the constitutional oath of office. The appointment of a deputy must not be construed to confer upon that deputy policymaking authority for the office of the county public guardian or the county by which the deputy is employed.

2. Each appointment must be in writing and recorded, with the oath of office of that deputy, in the office of the county recorder. Any revocation or resignation of an appointment must be recorded in the office of the county recorder.

3. The public guardian is responsible on his official bond for any official malfeasance or nonfeasance of his deputies and may require a bond for the faithful performance of the official duties of his deputies.

4. The compensation of a deputy public guardian must be fixed by the board of county commissioners and paid out of the county general fund.

Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. *A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.*

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his *permanent or general* individual guardian if he:

(a) Has no relative or friend able and willing to serve as his guardian; ~~for~~ and

(b) ~~[Lacks sufficient assets to provide the requisite compensation to a private guardian.]~~ *Is a resident of that county.*

~~{2-}~~ 3. A person ~~{so}~~ qualified ~~{-}~~ *pursuant to subsection 1 or 2*, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

4. *Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.*

5. *Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:*

The undersigned is the Public Guardian or a Deputy Public Guardian ofCounty. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

6. *A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.*

7. *If a person other than the public guardian served as temporary guardian prior to the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public*

guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. *For the purposes of this section:*

(a) *Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.*

(b) *The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.*

Sec. 12. NRS 253.215 is hereby amended to read as follows:

253.215 **1.** When necessary for the proper administration of a guardianship, a public guardian may ~~retain~~ :

(a) ~~Retain~~ an attorney to assist him ~~[, rotating this employment in successive guardianships among the attorneys practicing]~~ *if the attorney practices law* in the county ~~[who are]~~ *and is* qualified by experience and willing to serve ~~[,] or rotate this employment among attorneys who practice law in the county and who are qualified by experience and willing to serve;~~ *or*

(b) *Upon approval of the board of county commissioners, obtain assistance from the office of the district attorney of the county.*

2. ~~[The]~~ *Any* attorney's fee must be paid from the assets of the ward.

Sec. 13. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian ~~[shall]~~ *may* investigate the financial status , *assets and personal and family history* of any person for whom ~~[the appointment of]~~ the public guardian ~~[as his guardian is requested.]~~ *has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.* In connection with the investigation, the public guardian may require ~~[that person]~~ *any proposed ward or any spouse, parent, child or other kindred of the proposed ward to give any information and* to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, ~~[needed to evaluate eligibility.]~~ *which are needed by the public guardian.* The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 14. NRS 253.240 is hereby amended to read as follows:

253.240 The reasonable value of a public guardian's services rendered without cost to a ward shall be allowed as a claim against the estate *of the ward* upon the ~~[death of the ward.]~~ *approval of the court.* Money received in payment of a claim against the estate of the ward shall be deposited by the public guardian to the credit of the county general fund ~~[,] or any other county fund,~~ *as determined by the board of county commissioners.*

Sec. 15. NRS 648.060 is hereby amended to read as follows:

648.060 1. ~~[No]~~ ***Except as otherwise provided in NRS 253.220, no*** person may:

(a) Engage in the business of private investigator, private patrolman, process server, reposessor, dog handler, security consultant, or polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

↪ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person holds a work card issued by the sheriff of the county in which the work is to be performed. The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.

(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

Sec. 16. NRS 648.063 is hereby amended to read as follows:

648.063 An unlicensed person who performs a single act for which a license is required has engaged in the business for which the license is required and, unless exempt from licensing ~~[,]~~ ***or performing an investigation pursuant to NRS 253.220***, has violated NRS 648.060.

Sec. 17. NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in subsection 2 ~~[,]~~ ***or NRS 253.220***, it is unlawful for a person to:

(a) Allow an employee, including an independent contractor, to perform any work regulated pursuant to the provisions of this chapter unless the employee holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed. The provisions of this paragraph do not apply to a person licensed pursuant to this chapter.

(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.

2. The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.

3. The sheriff of any county in which such restrictions apply shall require any person applying for such a work card to submit a complete set of his fingerprints to the sheriff who may forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 237.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 887.

AN ACT relating to concealed firearms; authorizing a person who holds a permit to carry a concealed firearm issued by another state to carry a concealed firearm in this State under certain circumstances; revising various other provisions governing permits to carry concealed firearms; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person who is not a resident of the State of Nevada to apply to the sheriff of any county in this State for a permit to carry a concealed firearm in this State. (NRS 202.3657) Section 2 of this bill allows a person who is not a resident of this State to carry a concealed firearm in this State if the person has a permit to carry a concealed firearm issued by a state included in the list prepared by the Department of Public Safety pursuant to section 3 of this bill. In addition, a person who becomes a resident of this State and who possesses a permit issued by a state whose permits are recognized in this State may not carry a concealed firearm unless the person has been issued a permit from the sheriff of the county in which he resides within 60 days of becoming a resident of this State.

Section 3 of this bill requires the Department to prepare a list of states which have been determined, on or before July 1 of each year: (1) to have requirements for the issuance of a permit to carry a concealed firearm that are substantially similar to or more stringent than the requirements of this State; and (2) to have an electronic database which identifies each individual who holds a valid permit to carry a concealed firearm issued by the state and which a law enforcement officer of this State may access at any time. A state must not be included in the list unless the Nevada Sheriffs' and Chiefs' Association agrees with the Department that the state should be included in the list.

Under existing law, a person may obtain a permit to carry in a concealed manner one or more firearms of a specific make, model and caliber if the person meets certain requirements. (NRS 202.3657, 202.366) ~~{Section 4 of this bill creates three categories of firearms, which consist of a category of revolvers, a category of semiautomatic firearms and a category of both revolvers and semiautomatic firearms. Under section}~~ **Section 5 of this bill** ~~{}~~ **revises the manner in which** a person may ~~{obtain}~~ **apply for** a permit to carry **a firearm** in a concealed manner ~~{any firearm in one of the three categories if the person meets certain requirements.}~~ **so that the person is only required to list on an application each specific semiautomatic**

firearm to which the permit will pertain, but may receive a permit for all revolvers owned by him without listing each revolver specifically. Similarly, sections 5 and 6 of this bill provide that the permit issued will include a statement as to whether the permit authorizes a person to carry revolvers in a concealed manner. In addition, if the permit authorizes a person to carry any semiautomatic firearm in a concealed manner, the make, model and caliber of each semiautomatic firearm to which the permit pertains will be listed on the permit.

Existing law provides for the expiration of a permit to carry a concealed firearm. If the holder of the permit is a resident of this State, the permit expires on the fifth anniversary of the birthday of the holder which is nearest to the date of issuance or renewal. If the holder is a resident of another state, the permit expires on the third anniversary of the birthday of the holder which is nearest to the date of issuance or renewal. (NRS 202.366) Section 6 of this bill provides that all permits to carry a concealed firearm expire 5 years after the date of issuance.

Section 7 of this bill revises existing law so that for the renewal of a permit to carry a concealed firearm a person is required to demonstrate competence with: (1) a revolver, if the permit authorizes the person to carry revolvers; (2) each semiautomatic firearm to which the application pertains, if the permit authorizes the person to carry any semiautomatic firearm; or (3) a revolver and each semiautomatic firearm to which the permit pertains, if the permit authorizes the person to carry both revolvers and specific semiautomatic firearms. (NRS 202.3677)

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

Section 1. Chapter 202 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 subsection 2, a person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to section 3 of this act may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act.*

2. *A person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to section 3 of this act may not carry a concealed firearm in this State if the person:*

(a) *Becomes a resident of this State; and*
(b) *Has not been issued a permit from the sheriff of the county in which he resides within 60 days after becoming a resident of this State.*

3. *A person who carries a concealed firearm pursuant to this section is subject to the same legal restrictions and requirements imposed upon a person who has been issued a permit by a sheriff in this State.*

Sec. 3. 1. *On or before July 1 of each year, the Department shall:*

(a) *Examine the requirements for the issuance of a permit to carry a concealed firearm in each state and determine whether the requirements of each state are substantially similar to or more stringent than the requirements set forth in NRS 202.3653 to 202.369, inclusive, and sections 2 and 3 of this act.*

(b) *Determine whether each state has an electronic database which identifies each individual who possesses a valid permit to carry a concealed firearm issued by that state and which a law enforcement officer in this State may access at all times through a national law enforcement telecommunications system.*

(c) *Prepare a list of states that meet the requirements of paragraphs (a) and (b). A state must not be included in the list unless the Nevada Sheriffs' and Chiefs' Association agrees with the Department that the state should be included in the list.*

(d) *Provide a copy of the list prepared pursuant to paragraph (c) to each law enforcement agency in this State.*

2. The Department shall, upon request, make the list prepared pursuant to subsection 1 available to the public.

Sec. 4. NRS 202.3653 is hereby amended to read as follows:

202.3653 As used in NRS 202.3653 to 202.369, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires:

1. ~~["Category of firearm" means a category of revolvers, a category of semiautomatic firearms or a category of both revolvers and semiautomatic firearms. As used in this subsection, the term:~~

~~(a) "Revolver" means a firearm that has a revolving cylinder with several chambers, which, by pulling the trigger or setting the hammer, are aligned with the barrel, placing the bullet in a position to be fired. The term includes, without limitation, a single or double derringer.~~

~~(b) "Semiautomatic firearm" means a firearm which:~~

~~(1) Uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger; and~~

~~(2) Requires the release of the trigger and another pull of the trigger for each successive shot.~~

~~2.-7~~ "Concealed firearm" means a loaded or unloaded pistol, revolver or other firearm which is carried upon a person in such a manner as not to be discernible by ordinary observation.

~~2.-3~~ "Department" means the Department of Public Safety.

~~3.-4~~ "Permit" means a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive ~~[-]~~, *and sections 2 and 3 of this act.*

4. "Revolver" means a firearm that has a revolving cylinder with several chambers, which, by pulling the trigger or setting the hammer, are aligned with the barrel, placing the bullet in a position to be fired. The term includes, without limitation, a single or double derringer.

5. "Semiautomatic firearm" means a firearm which:

(a) Uses the energy of the explosive in a fixed cartridge to extract a fixed cartridge and chamber a fresh cartridge with each single pull of the trigger; and

(b) Requires the release of the trigger and another pull of the trigger for each successive shot.

Sec. 5. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, one or more specific semiautomatic firearms ~~for~~ ~~category of firearm~~, or for revolvers and one or more specific semiautomatic firearms, as applicable, to any person who is qualified to possess ~~each~~ ~~the category of~~ the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, each ~~the category of~~ specific semiautomatic firearm to which the application pertains, or revolvers and each such semiautomatic firearm, as applicable, by presenting a certificate or other documentation to the sheriff which shows that he:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➔ Such a course must include instruction in the use of revolvers, each ~~the category of~~ semiautomatic firearm to which the application pertains, or revolvers and each such semiautomatic firearm and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless he determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if he determines that the applicant or permittee:

(a) Has an outstanding warrant for his arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, he has been:

(1) Convicted of violating the provisions of NRS 484.379; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for his conviction of a felony; or

(2) Suspension of his sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if he receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of his application until the final disposition of the charges against him. If a

permittee is acquitted of the charges against him, or if the charges are dropped, the sheriff shall restore his permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) The make, model and caliber of each ~~category of~~ semiautomatic firearm to which the application pertains ~~to~~, if any;

(g) **Whether the application pertains to revolvers;**

(h) A nonrefundable fee in the amount necessary to obtain the report required pursuant to subsection 1 of NRS 202.366; and

~~(h)~~ **(i)** A nonrefundable fee set by the sheriff not to exceed \$60.

Sec. 6. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, the sheriff shall conduct an investigation of the applicant to determine if he is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. The sheriff shall issue a permit to the applicant unless he is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, **and sections 2 and 3 of this act**, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting his investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a

colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County Permit Number

Expires Date of Birth

Height Weight

Name Address

City Zip

Photograph

Signature

Issued by

Date of Issue

Make, model and caliber of each authorized ~~firearm~~ ~~Authorized category of~~ semiautomatic firearm, if any

Revolvers authorized.....Yes No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires ~~on~~

~~(a) If the permittee was a resident of this State at the time the permit was issued, on the fifth anniversary of the permittee's birthday, measured from the birthday nearest the date of issuance or renewal.~~

~~(b) If the permittee was not a resident of this State at the time the permit was issued, on the third anniversary of the permittee's birthday, measured from the birthday nearest the date of issuance or renewal.~~

~~5. If the date of birth of a permittee is on February 29 in a leap year, for the purposes of NRS 202.3653 to 202.369, inclusive, his date of birth shall be deemed to be on February 28.]~~ **5 years after the date on which it is issued.**

Sec. 7. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his permit, the permittee must complete and submit to the sheriff who issued the permit an application for renewal of the permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee of \$25.

➡ If a permittee fails to renew his permit on or before the date of expiration of his permit, the application for renewal must include an additional nonrefundable late fee of \$15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with ~~[a] the category of~~ revolvers, with each semiautomatic firearm to which the application pertains, or with revolvers and each such semiautomatic firearm, as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 8. NRS 202.3687 is hereby amended to read as follows:

202.3687 1. The provisions of NRS 202.3653 to 202.369, inclusive, **and sections 2 and 3 of this act** do not prohibit a sheriff from issuing a temporary permit . ~~[to carry a concealed firearm.]~~ A temporary permit may include, but is not limited to, provisions specifying the period for which the permit is valid.

2. Each sheriff who issues a permit pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, **and sections 2 and 3 of this act** shall provide such information concerning the permit and the person to whom it is issued to the Central Repository for Nevada Records of Criminal History.

Sec. 9. The Department of Public Safety shall prepare the initial list required by section 3 of this act and provide a copy of that list to each law enforcement agency in this State not later than October 1, 2007.

Sec. 10. The amendatory provisions of sections 5 and 6 of this act apply to a permit to carry a concealed firearm that is issued on or after October 1, 2007.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Anderson moved that Senate Bill No. 242 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 279.

Bill read second time.

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

Amendment No. 912.

AN ACT relating to contractors; revising certain duties and powers of the State Contractors' Board; providing express authority for the Board to collect and maintain data and to conduct investigations; revising the procedures for applying for the issuance or renewal of a contractor's license; revising the term of a contractor's license from 1 year to 2 years in certain circumstances; revising certain fees and assessments to reflect such change in the term of a contractor's license; authorizing the Board to take certain actions against an unlicensed person who violates a provision governing contractors; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which governs contractors, does not apply, under certain circumstances, to an owner of a complex containing less than five condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the

managing officer who performs certain maintenance and repairs to the property which are valued at less than \$500. (NRS 624.031) Section 1 of this bill expands this exemption to include any maintenance and repairs which are valued at less than \$1,000.

Existing law requires the State Contractors' Board to establish an Investigations Office that includes a Special Investigations Unit and a Compliance Investigations Unit. (NRS 624.112) Section 2 of this bill eliminates the requirement to include those two specific units within the Investigations Office.

Existing law authorizes the Board to require criminal investigators who are employed by the Board to locate and identify certain persons who violate a provision of chapter 624 of NRS or any regulations adopted by the Board. (NRS 624.115) Section 3 of this bill authorizes the Board also to require compliance investigators who are employed by the Board to locate and identify such persons.

Existing law authorizes the Board to undertake all functions and duties related to the administration of chapter 624 of NRS. (NRS 624.160) Section 4 of this bill provides express authority for the Board to collect and maintain data regarding investigations and complaints on contractors and to conduct investigations of contractors.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit a written application to the Board that includes, without limitation, the names and addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant. (NRS 624.250) Section 5 of this bill revises this requirement for applicants that are corporations or limited-liability companies. Section 5 also requires the Board to require an applicant to pay the license fee and any applicable assessments before the Board issues a license to the applicant.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit to the Board proof of industrial insurance and insurance for occupational diseases, proof of self-insurance or a signed affidavit affirming that the applicant is not subject to the statutes governing industrial insurance and occupational insurance because of certain specified circumstances. (NRS 624.256) Section 6 of this bill provides that failure of such an applicant or licensee to file or maintain such insurance constitutes cause for the Board to take certain administrative actions against the person unless the person provides to the Board the affidavit discussed above.

Existing law requires an applicant for a contractor's license or a licensee to show such a degree of financial responsibility as the Board deems necessary for the safety and protection of the public. (NRS 624.260) Existing law also requires that the financial responsibility be determined by using certain standards and criteria set forth in statute. (NRS 624.263) Section 7 of this bill expands those standards and criteria and authorizes, rather than requires, these standards and criteria to be used in determining the financial responsibility of an applicant or licensee.

Section 9 of this bill revises the existing fee for a contractor's license from \$450 annually to \$900 biennially. (NRS 624.283)

Section 10 of this bill revises the existing term of a contractor's license from 1 year to 2 years and authorizes the Board to establish a system of staggered biennial renewals. Section 20 of this bill provides that the provisions of section 10 do not apply to an existing contractor's license until the first renewal date for the license that occurs after the effective date of this bill.

Existing law authorizes the Board or its designee to issue administrative citations and to take action against an applicant for a contractor's license or a licensee who commits an act which constitutes cause for disciplinary action. (NRS 624.341) Section 12 of this bill authorizes the Board or its designee to issue such citations and to take such action against any person who violates a provision of chapter 624 of NRS or any regulations adopted by the Board. Section 12 also specifies that any administrative fine ordered in the citation must not exceed \$50,000 under certain circumstances. Further, section 12 provides that it is a misdemeanor for an unlicensed person to fail to comply with such a citation or order issued by the Board pursuant to NRS 624.341. Sections 13, 14 and 15 of this bill similarly amend existing law to reflect the expanded scope of the administrative citations and actions. (NRS 624.345, 624.351, 624.361)

Section 16 of this bill revises the existing assessments which are required to be paid by each residential contractor on an annual basis by doubling the amounts of the assessments and requiring such assessments to be paid per biennium. (NRS 624.470)

Existing law authorizes the Board to impose an administrative fine upon an unlicensed person who engages in business as a contractor or submits a bid on a job in this State. (NRS 624.710) Section 17 of this bill further authorizes the Board to impose an administrative fine on a person who violates certain provisions governing advertising concerning contractors or certain provisions governing the ability of licensees to participate in joint ventures or other combinations. (NRS 624.720, 624.740)

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. ~~{An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs}~~ **Any** work to repair or maintain ~~{that}~~ property the value of which is less than ~~[\$500,]~~ **\$1,000**, including labor and materials, unless:

- (a) A building permit is required to perform the work;
- (b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;
- (c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;
- (d) The work is performed as a part of a larger project:
 - (1) The value of which is \$500 or more; or
 - (2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or
- (e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

Sec. 2. NRS 624.112 is hereby amended to read as follows:

624.112 1. The Board shall:

- (a) Establish an Investigations Office to enforce the provisions of this chapter. The Investigations Office must ~~{include a Special Investigations Unit consisting}~~ **consist** of criminal investigators and ~~{a Compliance Investigations Unit consisting of}~~ compliance investigators.

(b) Adopt regulations setting forth the qualifications required for investigators employed to carry out this section.

2. As used in this section, “criminal investigator” means a person authorized to perform the duties set forth in subsection 2 of NRS 624.115.

Sec. 3. NRS 624.115 is hereby amended to read as follows:

624.115 1. The Board may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

- (1) A licensee or an applicant for a contractor’s license; or
- (2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may request any constable, sheriff or other peace officer to assist him in the issuance of such a citation.

3. The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

Sec. 4. NRS 624.160 is hereby amended to read as follows:

624.160 1. The Board is vested with all of the functions and duties relating to the administration of this chapter.

2. The Board shall:

(a) Carry out a program of education for customers of contractors.

(b) Maintain and make known a telephone number for the public to obtain information about self-protection from fraud in construction and other information concerning contractors and contracting.

(c) Collect and maintain records, reports and compilations of statistical data concerning investigations and complaints.

3. The Board may provide advisory opinions and take other actions that are necessary for the effective administration of this chapter and the regulations of the Board.

4. The Board may, on its own motion, and shall, upon receipt of a written complaint or upon receipt of information from a governmental agency, investigate the actions of any person acting in the capacity of a contractor, with or without a license.

Sec. 5. NRS 624.250 is hereby amended to read as follows:

624.250 1. To obtain or renew a license, an applicant must submit to the Board an application in writing containing:

(a) The statement that the applicant desires the issuance of a license under the terms of this chapter.

(b) The street address or other physical location of the applicant's place of business.

(c) The name of a person physically located in this State for service of process on the applicant.

(d) The street address or other physical location in this State and, if different, the mailing address, for service of process on the applicant.

(e) ~~{The}~~ **Except as otherwise provided in paragraphs (f) or (g), the names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.**

(f) If the applicant is a corporation, the names and physical and mailing addresses of the president, secretary, treasurer, any officers responsible for contracting activities in this State, any officers responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(g) If the applicant is a limited-liability company, the names and physical and mailing addresses of any managers or members with managing authority, any managers or members responsible for contracting activities in this State, any managers or members responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(h) Any information requested by the Board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.

~~{(g)}~~ **(i) All information required to complete the application.**

2. The application must be:

(a) Made on a form prescribed by the Board in accordance with the rules and regulations adopted by the Board.

(b) Accompanied by the **application** fee fixed by this chapter.

3. The Board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the Construction Education Account created pursuant to NRS 624.580. The application form must state in a clear and conspicuous manner that a contribution to the Construction Education Account is voluntary and is

in addition to any fees required for licensure. If the Board receives a contribution from an applicant, the Board shall deposit the contribution with the State Treasurer for credit to the Construction Education Account.

4. Before issuing a license to any applicant, the Board shall require the applicant to pay the license fee fixed by this chapter and, if applicable, any assessment required pursuant to NRS 624.470.

Sec. 6. NRS 624.256 is hereby amended to read as follows:

624.256 1. Before granting an original or renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board:

(a) Proof of industrial insurance and insurance for occupational diseases which covers his employees;

(b) A copy of his certificate of qualification as a self-insured employer which was issued by the Commissioner of Insurance;

(c) If the applicant is a member of an association of self-insured public or private employers, a copy of the certificate issued to the association by the Commissioner of Insurance; or

(d) An affidavit signed by the applicant affirming that he is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS because:

(1) He has no employees;

(2) He is not or does not intend to be a subcontractor for a principal contractor; and

(3) He has not or does not intend to submit a bid on a job for a principal contractor or subcontractor.

2. The Board shall notify the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 whenever the Board learns that an applicant or holder of a contractor's license has engaged in business as or acted in the capacity of a contractor within this State without having obtained industrial insurance or insurance for occupational diseases in violation of the provisions of chapters 616A to 617, inclusive, of NRS.

3. Failure by an applicant or holder of a contractor's license to file or maintain in full force the required industrial insurance and insurance for occupational diseases constitutes cause for the Board to deny, revoke, suspend, refuse to renew or otherwise discipline the person, unless the person has complied with the provisions set forth in paragraph (d) of subsection 1.

Sec. 7. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant, but the financial responsibility of any owners or managing officers of the licensee or applicant may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant.

2. The financial responsibility of an applicant for a contractor's license or of a licensed contractor ~~must~~ **may** be determined by using the following standards and criteria in connection with each applicant or contractor and each associate or partner thereof:

- (a) ~~Net~~ **Amount of net** worth.
- (b) Amount of liquid assets.
- (c) **Amount of current assets.**
- (d) **Amount of current liabilities.**
- (e) **Amount of working capital.**
- (f) **Ratio of current assets to current liabilities.**
- (g) **Fulfillment of bonding requirements pursuant to NRS 624.270.**
- (h) Prior payment and credit records.
- ~~((d))~~ (i) Previous business experience.
- ~~((e))~~ (j) Prior and pending lawsuits.
- ~~((f))~~ (k) Prior and pending liens.
- ~~((g))~~ (l) Adverse judgments.
- ~~((h))~~ (m) Conviction of a felony or crime involving moral turpitude.
- ~~((i))~~ (n) Prior suspension or revocation of a contractor's license in Nevada or elsewhere.
- ~~((j))~~ (o) An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:
 - (1) A composition, arrangement or reorganization proceeding;
 - (2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this State or the United States; or
 - (3) The making of an assignment for the benefit of creditors.
- ~~((k))~~ (p) Form of business organization, corporate or otherwise.
- ~~((l))~~ (q) Information obtained from confidential financial references and credit reports.
- ~~((m))~~ (r) Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

3. A licensed contractor shall, as soon as it is reasonably practicable, notify the Board in writing upon the filing of a petition or application relating to the contractor that initiates any proceeding, appointment or assignment set forth in paragraph ~~((j))~~ (o) of subsection 2. The written notice must be accompanied by:

- (a) A copy of the petition or application filed with the court; and
- (b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in residential construction, the Board may require the applicant or licensee to establish his financial responsibility by submitting to the Board:

- (a) A financial statement that is:

- (1) Prepared by a certified public accountant; or
- (2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and
- (b) A statement setting forth the number of building permits issued to and construction projects completed by the licensee during the immediately preceding year and any other information required by the Board. The statement submitted pursuant to this paragraph must be provided on a form approved by the Board.

5. In addition to the requirements set forth in subsection 4, the Board may require a licensee to establish his financial responsibility at any time.

6. An applicant for an initial contractor's license or a licensee applying for the renewal of a contractor's license has the burden of demonstrating his financial responsibility to the Board, if the Board requests him to do so.

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 624.280 is hereby amended to read as follows:

624.280 The Board may adopt regulations fixing the fee for an application, the fee for an examination and the ~~annual~~ fee for a license to be paid by applicants and licensees. Except as otherwise provided in NRS 624.281, the fee for:

1. An application must not exceed \$550.
2. A license must not exceed ~~[\$450 annually]~~ **\$900 biennially**.
3. An examination must not exceed \$300.

Sec. 10. NRS 624.283 is hereby amended to read as follows:

624.283 1. Each license issued under the provisions of this chapter expires ~~[1 year]~~ **2 years** after the date on which it is issued, except that the Board may by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered **biennial** renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.

2. A license may be renewed by submitting to the Board:

- (a) An application for renewal;
- (b) The fee for renewal fixed by the Board;
- (c) Any assessment required pursuant to NRS 624.470 if the holder of the license is a residential contractor as defined in NRS 624.450; and
- (d) All information required to complete the renewal.

3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:

(a) A financial statement that is:

- (1) Prepared by an independent certified public accountant; or
- (2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and
- (b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.

4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition

to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.

Sec. 11. (Deleted by amendment.)

Sec. 11.5. NRS 624.327 is hereby amended to read as follows:

624.327 1. Except as otherwise provided in this section, the existence of and the personally identifying information in a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 11.7. NRS 624.331 is hereby amended to read as follows:

624.331 1. A complaint against a licensee for the commission of any act or omission that constitutes cause for disciplinary action pursuant to NRS 624.300 must be filed in writing with the Board within 4 years after the act or omission.

2. The Board shall, within 2 years after the date on which the complaint is filed, initiate disciplinary action against the licensee or dismiss the complaint.

Sec. 12. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a ~~{licensee or applicant for a contractor's license}~~ person has committed an act which constitutes a ~~{cause for disciplinary action pursuant to NRS 624.300,}~~ violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the ~~{licensee or applicant.}~~ person. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a ~~{cause for disciplinary action, at the licensee's or applicant's cost,}~~ violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine ~~{}~~ not to exceed \$50,000, except as otherwise provided in subsection 1 of NRS 624.300; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

2. If a written citation issued pursuant to subsection 1 includes an order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action;]~~ **violation of this chapter or the regulations of the Board**, the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the ~~[licensee or applicant]~~ **person** receives the citation, and specifically describe the action required to be taken.

3. *The sanctions authorized by subsection 1 are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.*

4. *The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.*

Sec. 13. NRS 624.345 is hereby amended to read as follows:

624.345 1. A ~~[licensee or applicant for a contractor's license]~~ **person** who is issued a written citation pursuant to NRS 624.341 may contest the citation within 15 business days after the date on which the citation is served on the ~~[licensee or applicant]~~ **person**.

2. A ~~[licensee or applicant for a contractor's license]~~ **person** may contest, without limitation:

(a) The facts forming the basis for the determination that the ~~[licensee or applicant]~~ **person** has committed an act which constitutes a ~~[cause for disciplinary action;]~~ **violation of this chapter or the regulations of the Board;**

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the ~~[licensee or applicant]~~ **person;** and

(e) Whether any corrective action described in the citation is reasonable.

3. If a ~~[licensee or applicant for a contractor's license]~~ **person** does not contest a citation issued pursuant to NRS 624.341 within 15 business days after the date on which the citation is served on the ~~[licensee or applicant]~~ **person**, or on or before such later date as specified by the Board pursuant to subsection 4, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341.

5. For the purposes of this section, a citation shall be deemed to have been served on a ~~[licensee or an applicant]~~ **person** on:

(a) The date on which the citation is personally delivered to the ~~[licensee or applicant]~~ **person;** or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the ~~{licensee or applicant.}~~ **person.**

Sec. 14. NRS 624.351 is hereby amended to read as follows:

624.351 If a ~~{licensee or applicant for a contractor's license}~~ **person** contests a citation issued pursuant to NRS 624.341 or order to correct a violation of the provisions of this chapter within 15 business days after he receives the citation or order, or on or before such later date as specified by the Board pursuant to subsection 4 of NRS 624.345, the Board shall hold a hearing pursuant to NRS 624.291.

Sec. 15. NRS 624.361 is hereby amended to read as follows:

624.361 The Board shall adopt regulations concerning the:

1. Form of a written citation issued pursuant to NRS 624.341;

2. Time required for a ~~{licensee or applicant for a license}~~ **person** to correct a condition resulting from an act that constitutes a ~~{cause for disciplinary action}~~ **violation of this chapter or the regulations of the Board** if he is so ordered pursuant to NRS 624.341; and

3. Imposition of an administrative fine pursuant to the provisions of this chapter. The Board ~~{must}~~ **shall** consider:

(a) The gravity of the violation;

(b) The good faith of the ~~{licensee.}~~ **person;** and

(c) Any history of previous violations of the provisions of this chapter by the ~~{licensee.}~~ **person.**

Sec. 16. NRS 624.470 is hereby amended to read as follows:

624.470 1. Except as otherwise provided in subsection 3, in addition to the ~~{annual}~~ fee for a license required pursuant to NRS 624.280, a residential contractor shall pay to the Board an ~~{annual}~~ assessment not to exceed the following amount, if the monetary limit on his license is:

Not more than \$1,000,000	{ \$100 } \$200 per biennium
More than \$1,000,000 but limited	{ 250 } 500 per biennium
Unlimited	{ 500 } 1,000 per biennium

2. The Board shall administer and account separately for the money received from the ~~{annual}~~ assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."

3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.

4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a residential contractor to perform qualified services adequately, as provided in NRS 624.400 to 624.560, inclusive.

Sec. 17. NRS 624.710 is hereby amended to read as follows:

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, **subsections 1, 2 or 3 of NRS 624.720 or NRS 624.740**, the Board

may impose for each violation an administrative fine in an amount that is not less than \$1,000 and not more than \$50,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

- (a) The gravity of the violation;
- (b) The good faith of the person; and
- (c) Any history of previous violations of the provisions of this chapter *or the regulations of the Board* committed by the person.

3. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

4. If the administrative fine and any interest imposed pursuant to NRS 624.300 is not paid when due, the fine and interest, if any, must be recovered in a civil action brought by the Attorney General on behalf of the Board.

5. All administrative fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 18. NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

- (a) Submitted by a responsive and responsible contractor who:
 - (1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; and
 - (2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and
- (b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

☛ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

- (a) Paid directly, on his own behalf:
 - (1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including,

without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~annual~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 19. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➡ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months

immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the ~~annual~~ renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.

10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 20. The amendatory provisions of section 10 of this act do not apply to a license issued pursuant to chapter 624 of NRS before the effective date of this act until the first renewal date for the license after the effective date of this act.

Sec. 21. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 310.

Bill read second time.

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

Amendment No. 700.

AN ACT relating to professions; revising provisions governing the grading of certain examinations; requiring the electronic filing of certain information and reports by certain regulatory bodies; revising provisions governing the expiration of the licenses of cosmetological establishments and certain licensees; **revising the authority of certain professional and occupational boards to establish fees for providing certain services**; increasing the maximum salary that members of certain occupational or professional boards are entitled to receive for each day of service on the board; requiring the Legislative Committee on Health Care to appoint a subcommittee to conduct a study of the regulation of providers of health care in Nevada; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, various regulatory bodies governing professions and occupations under title 54 of NRS have examination requirements for licensure or certification. Section 1 of this bill provides that, if such a regulatory body uses or accepts a national or other examination which is produced or administered by an organization other than the regulatory body and which includes a methodology for determining the level of performance that constitutes a passing grade or score on the examination, the regulatory body shall apply that methodology in determining whether a person who took the examination achieved a passing grade or score.

Under existing law, such regulatory bodies are required to submit periodic reports of their disciplinary actions and other regulatory activities to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and certain standing committees of the Legislature. (NRS 622.100, 622.110) Section 2 of this bill requires that all such reports be submitted quarterly and that they be submitted in an electronic format prescribed by the Director.

Sections 3, 4, 6-12, 15, 18, 19, 21-23, 25, 27, 28, 30, 31, 33, 34, 36, 37, 39, 41-44 and 48-51 of this bill increase the maximum salary that members of certain professional or occupational boards are entitled to receive for each day of service on the board from \$80 to \$150 per day.

Sections 5.5, 10.5, 20.5, 31.5, 36.5 and 51.5 of this bill revise the authority of certain professional and occupational boards to establish fees for providing certain services.

Under existing law, the license of every cosmetologist, aesthetician, electrologist, hair designer, manicurist, demonstrator of cosmetics, instructor and cosmetological establishment expires on July 1 of each odd-numbered year. (NRS 644.320, 644.350) Sections 46 and 47 of this bill establish a

procedure under which approximately half of those licenses will expire in even-numbered years, the other half in odd-numbered years.

Section 54 of this bill requires the Legislative Committee on Health Care to appoint a subcommittee to conduct: (1) a review of the laws of this State that establish the scope of practice authorized for providers of health care; and (2) a study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding the provisions of any specific statute to the contrary, if a regulatory body, in any testing authorized or required pursuant to this title or any regulations adopted pursuant thereto, uses or accepts a national or other examination which is produced or administered by an organization other than the regulatory body and which includes a methodology for determining the level of performance that constitutes a passing grade or score on the examination, the regulatory body shall apply that methodology in determining whether a person who took the examination achieved a passing grade or score.

Sec. 2. NRS 622.100 is hereby amended to read as follows:

622.100 1. Each regulatory body shall, on or before the 20th day of January, April, July and October, submit to the Director of the Legislative Counsel Bureau ~~{a}~~ *in an electronic format prescribed by the Director:*

(a) A summary of each disciplinary action taken by the regulatory body during the immediately preceding calendar quarter against any licensee of the regulatory body ~~{-}~~; *and*

(b) A report that includes:

(1) *The number of licenses issued by the regulatory body during the immediately preceding calendar quarter; and*

(2) *Any other information that is requested by the Director or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.*

2. The Director ~~{of the Legislative Counsel Bureau}~~ shall:

(a) Provide any information he receives pursuant to subsection 1 to a member of the public upon request;

(b) Cause a notice of the availability of such information to be posted on the public website of the Nevada Legislature on the Internet; and

(c) Transmit a compilation of the information he receives pursuant to subsection 1 to the Legislative Commission quarterly, unless otherwise directed by the Commission.

3. *The Director, on or before the first day of each regular session of the Legislature and at such other times as directed, shall compile the reports he*

has received pursuant to paragraph (b) of subsection 1 and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, each of which shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Sec. 3. NRS 623.070 is hereby amended to read as follows:

623.070 1. Each member of the Board is entitled to receive from the money of the Board:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Secretary and Treasurer of the Board is entitled to be paid a salary out of the money of the Board in an amount to be determined by the Board.

Sec. 4. NRS 623A.090 is hereby amended to read as follows:

623A.090 1. Members of the Board are entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Any salary, per diem allowance or travel expenses paid pursuant to the provisions of this section must be paid from money kept or deposited by the Board in accordance with the provisions of NRS 623A.150.

Sec. 5. NRS 623A.190 is hereby amended to read as follows:

623A.190 1. The Board shall administer or cause to be administered a written examination to each applicant for a certificate of registration or certificate to practice as a landscape architect intern.

2. The examination must be given at such times and places and under such supervision as the Board may determine.

3. The Board may include in the written examination any theoretical or applied fields and ethical issues it deems appropriate to determine professional skills and judgment.

4. ~~[The]~~ **Except as otherwise provided in section 1 of this act, the** Board shall, by regulation, establish the grade that is required to pass the written examination.

5. The written examination may be waived by the Board if the applicant:

(a) Presents documentation that he has passed an examination in another state or country that has been accepted as an equivalent by a national association of registered boards; or

(b) Has been certified by such an organization.

6. Written examination papers must be destroyed after a certificate of registration is issued.

7. If the applicant fails to pass the written examination or any part thereof, he may retake the examination or the part failed in a subsequent examination upon the payment of the applicable fees prescribed by the Board pursuant to the provisions of NRS 623A.240.

Sec. 5.5. NRS 623A.240 is hereby amended to read as follows:

623A.240 1. The following fees must be prescribed by the Board and must not exceed the following amounts:

Application fee.....	\$200.00
Examination fee.....	100.00,
	plus the actual
	cost of the
	examination
Certificate of registration	25.00
Annual renewal fee.....	200.00
Reinstatement fee.....	300.00
Delinquency fee.....	50.00
Change of address fee.....	10.00
Copy of a document, per page25

2. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost incurred by the Board to provide the service.

3. The Board may authorize a landscape architect intern to pay the application fee or any portion of that fee during any period in which he is the holder of a certificate to practice as a landscape architect intern. If a landscape architect intern pays the fee or any portion of the fee during that period, the Board shall credit the amount paid by him towards the entire amount of the application fee for the certificate of registration required pursuant to this section.

4. The fees prescribed by the Board pursuant to this section must be paid in United States currency in the form of a check, cashier's check or money order. If any check submitted to the Board is dishonored upon presentation for payment, repayment of the fee, including the fee for a returned check in the amount established by the State Controller pursuant to NRS 353C.115, must be made by money order or certified check.

5. The fees prescribed by the Board pursuant to this section are nonrefundable.

Sec. 6. NRS 624.140 is hereby amended to read as follows:

624.140 1. Except as otherwise provided in subsection 3, if money becomes available from the operations of this chapter and payments made for licenses, the Board may pay from that money:

(a) The expenses of the operations of this chapter, including the maintenance of offices.

(b) The salary of the Executive Officer who must be named by the Board.

(c) A salary to each member of the Board of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board.

(d) A per diem allowance and travel expenses for each member and employee of the Board, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. The Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

3. Except as otherwise provided in NRS 624.520, if a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, the Board shall deposit any money collected from the imposition of fines with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 7. NRS 625.110 is hereby amended to read as follows:

625.110 1. The Board shall elect officers from its members and, by regulation, establish the:

(a) Offices to which members may be elected;

(b) Title and term for each office; and

(c) Procedure for electing members to each office.

2. At any meeting, five members constitute a quorum.

3. Each member is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. The salaries of members of the Board and employees of the Board must be paid from the fees received by the Board pursuant to the provisions of this chapter, and no part of those salaries may be paid out of the State General Fund.

6. The Board shall appoint an Executive Director who serves at the pleasure of the Board and is entitled to receive such compensation as may be fixed by the Board.

Sec. 8. NRS 625A.050 is hereby amended to read as follows:

625A.050 1. The Secretary of the Board is entitled to receive:

- (a) A salary in an amount fixed by the Board; and
- (b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. All other members of the Board are entitled to receive:

- (a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and
- (b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 9. NRS 628.110 is hereby amended to read as follows:

628.110 1. Each member of the Board is entitled to receive:

- (a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and
- (b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 10. NRS 630.110 is hereby amended to read as follows:

630.110 1. Out of the money coming into the possession of the Board, each member and advisory member of the Board is entitled to receive:

- (a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and
- (b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Expenses of the Board and the expenses and salaries of its members and employees must be paid from the fees received by the Board pursuant to the provisions of this chapter, and no part of the salaries or expenses of the Board may be paid out of the State General Fund or from the penalties imposed by the Board pursuant to this chapter.

4. All money received by the Board from:

(a) Fees must be deposited in financial institutions in this State that are federally insured or insured by a private insurer pursuant to NRS 678.755, invested in treasury bills or notes of the United States, deposited in institutions in this State whose business is the making of investments, or invested as authorized by NRS 355.140.

(b) Penalties must be deposited with the State Treasurer for credit to the State General Fund.

Sec. 10.5. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement	\$600
For application for and issuance of a temporary, locum tenens, limited, restricted, special or special purpose license	400
For renewal of a limited, restricted or special license.....	400
For application for and issuance of a license as a physician assistant	400
For biennial registration of a physician assistant	800
For biennial registration of a physician	800
For application for and issuance of a license as a practitioner of respiratory care	400
For biennial registration of a practitioner of respiratory care	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure	50
For a duplicate identification card	25
For a duplicate license	50
For computer printouts or labels	500
For verification of a listing of physicians, per hour	20
For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for ~~its other services.~~ the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 11. NRS 630A.160 is hereby amended to read as follows:

630A.160 1. Out of the money coming into the possession of the Board, each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Expenses of the Board and the expenses and salaries of the members and employees of the Board must be paid from the fees received by the Board pursuant to the provisions of this chapter. Except as otherwise provided in subsection 6, no part of the salaries or expenses of the members of the Board may be paid out of the State General Fund.

4. All money received by the Board must be deposited in financial institutions in this State that are federally insured or insured by a private insurer approved pursuant to NRS 678.755.

5. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect administrative fines, court costs and attorney's fees therefor and deposit the money therefrom in financial institutions in this State that are federally insured or insured by a private insurer approved pursuant to NRS 678.755.

6. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 5, the Board shall deposit the money collected from the imposition of administrative fines, court costs and attorney's fees with the State Treasurer for credit to the State General Fund. The Board may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 12. NRS 631.180 is hereby amended to read as follows:

631.180 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The Board shall deposit in banks, credit unions or savings and loan associations in this State all fees which it receives.

4. All expenses of the Board must be paid from the fees received by the Board, and no part thereof may be paid from the State General Fund.

Sec. 13. NRS 631.240 is hereby amended to read as follows:

631.240 1. Any person desiring to obtain a license to practice dentistry in this State, after having complied with the regulations of the Board to determine eligibility:

(a) ~~[Must]~~ ***Except as otherwise provided in section 1 of this act, must*** present to the Board a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Examination with an average score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination given by the Board which examines the applicant's practical knowledge of dentistry and which includes demonstrations of the applicant's skill in dentistry; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

3. All persons who have satisfied the requirements for licensure as a dentist must be registered as licensed dentists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 14. NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:

(a) ~~[Must]~~ ***Except as otherwise provided in section 1 of this act, must*** pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The clinical examination given by the Board must include components that are:

- (a) Written or oral, or a combination of both; and
- (b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 15. NRS 632.080 is hereby amended to read as follows:

632.080 1. The compensation of the members of the Board must be fixed by the Board, but may not exceed ~~[\$80]~~ **\$150** for each day spent by each member in the discharge of his official duties.

2. While engaged in the discharge of his official duties, each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. All compensation, per diem allowances and travel expenses of the members and employees of the Board must be paid out of the money of the Board.

Sec. 16. NRS 632.2856 is hereby amended to read as follows:

632.2856 1. The training program required for certification as a nursing assistant must consist of 75 hours of instruction. The program must include no less than 60 hours of theory and learning skills in a laboratory setting.

2. Except as otherwise provided in this subsection, the instructor of the program must be a registered nurse with:

- (a) Three years of nursing experience which includes direct care of patients and supervision and education of members of the staff; and

- (b) Proof of successful completion of training for instructors which has been approved by the Board.

➡ The Board may approve a licensed practical nurse as an instructor if the Board determines that requiring instruction by a registered nurse would create a hardship.

3. ~~{Upon}~~ ***Except as otherwise provided in section 1 of this act, upon*** completion of the program, a nursing assistant trainee must pass a test in theory with an overall score of 80 percent and a test of skills on a pass or fail basis. The test of skills must be given by a registered nurse. If the nursing assistant trainee fails either of the tests, he must repeat the training in the areas in which he was deficient before taking the certification examination.

4. In a program which is based in a facility, a nursing assistant trainee may only perform those tasks he has successfully completed in the training program, and must perform those tasks under the direct supervision of a registered nurse or a licensed practical nurse.

5. The Board shall adopt regulations not inconsistent with law:

(a) Specifying the scope of the training program and the required components of the program;

(b) Establishing standards for the approval of programs and instructors; and

(c) Designating the basic nursing services which a nursing assistant may provide upon certification.

6. Any medical facility, educational institution or other organization may provide a training program if the program meets the requirements set forth in this chapter and in the regulations of the Board, and is approved by the Board. Such a program must be administered through:

(a) The Nevada System of Higher Education;

(b) A program for career and technical education approved by the State Board for Career and Technical Education;

(c) A public school in this State; or

(d) Any other nationally recognized body or agency authorized by law to accredit or approve such programs.

7. An educational institution or agency that administers a training program shall:

(a) Develop or approve the curriculum for training provided in its service district;

(b) Manage the training program; and

(c) Work with medical and other facilities to carry out the requirements of paragraphs (a) and (b).

Sec. 17. NRS 632.2858 is hereby amended to read as follows:

632.2858 1. The Board shall authorize the administration of the examination of applicants for certification as nursing assistants.

2. The Board may employ, contract with or cooperate with any person in the preparation, administration and grading of a uniform national examination, but, *except as otherwise provided in section 1 of this act*, shall retain sole discretion and responsibility for determining the standards of successful completion of the examination.

3. The Board shall determine whether an examination may be repeated and the frequency of authorized reexaminations.

4. If an applicant fails the examination three times, he must repeat the training program prescribed in NRS 632.2856.

Sec. 18. NRS 633.241 is hereby amended to read as follows:

633.241 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in its business; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate

fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 19. NRS 634.025 is hereby amended to read as follows:

634.025 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 20. NRS 634.100 is hereby amended to read as follows:

634.100 1. An applicant for a license to practice chiropractic in this State must pay the required fee to the Secretary of the Board not less than 60 days before the date of the examination.

2. ~~[A]~~ ***Except as otherwise provided in section 1 of this act, a*** score of 75 percent or higher in all subjects taken on the examination is a passing score.

3. If an applicant fails to pass the first examination, he may take a second examination within 1 year without payment of any additional fees. ~~[Credit]~~ ***Except as otherwise provided in section 1 of this act, credit*** must be given on this examination for all subjects previously passed with a score of 75 percent or higher.

4. An applicant for a certificate as a chiropractor's assistant must pay the required fee to the Secretary of the Board before the application may be considered.

Sec. 20.5. NRS 634.135 is hereby amended to read as follows:

634.135 1. The Board may charge and collect fees not to exceed:

For an application for a license to practice chiropractic	\$200.00
For an examination for a license to practice chiropractic	200.00
For an application for, and the issuance of, a certificate as a chiropractor's assistant	\$100.00
For an examination for a certificate as a chiropractor's assistant	100.00
For the issuance of a license to practice chiropractic.....	300.00
For the annual renewal of a license to practice chiropractic	500.00
For the annual renewal of an inactive license to practice chiropractic .	150.00
For the annual renewal of a certificate as a chiropractor's assistant.....	100.00
For the restoration to active status of an inactive license to practice chiropractic	300.00
For reinstating a license to practice chiropractic which has been suspended or revoked	500.00
For reinstating a certificate as a chiropractor's assistant which has been suspended pursuant to NRS 634.130	100.00

For a review of any subject on the examination	25.00
For the issuance of a duplicate license or for changing the name on a license	35.00
For written certification of licensure.....	25.00
For providing a list of persons who are licensed to practice chiropractic to a person who is not licensed to practice chiropractic	25.00
For providing a list of persons who were licensed to practice chiropractic following the most recent examination of the Board to a person who is not licensed to practice chiropractic.....	10.00
For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this State	35.00
For providing a copy of the statutes, regulations and other rules governing the practice of chiropractic in this State to a person who is not licensed to practice chiropractic.....	25.00
For each page of a list of continuing education courses that have been approved by the Board.....	.50
For an application to a preceptor program offered by the Board to graduates of chiropractic schools or colleges.....	35.00
For a review by the Board of a course offered by a chiropractic school or college or a course of continuing education in chiropractic.....	25.00

2. In addition to the fees set forth in subsection 1, the Board may charge and collect reasonable and necessary fees for the expedited processing of a request or for any other incidental service it provides.

3. For a check or other method of payment made payable to the Board or tendered to the Board that is returned to the Board or otherwise dishonored upon presentation for payment, the Board shall assess and collect a fee in the amount established by the State Controller pursuant to NRS 353C.115.

Sec. 21. NRS 634A.050 is hereby amended to read as follows:

634A.050 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 22. NRS 635.020 is hereby amended to read as follows:

635.020 1. The State Board of Podiatry, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Three members who are licensed podiatric physicians in the State of Nevada.

(b) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

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

(1) A licensed podiatric physician in the State of Nevada; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed podiatric physician in the State of Nevada.

3. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. If a member is not licensed under the provisions of this chapter, the member shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 23. NRS 636.075 is hereby amended to read as follows:

636.075 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees paid or transmitted to the Board pursuant to the provisions of this chapter and no part thereof may be paid out of the State Treasury.

Sec. 24. NRS 636.190 is hereby amended to read as follows:

636.190 ~~[A]~~ ***Except as otherwise provided in section 1 of this act, a*** grade of 75 or higher for each area tested on the examination is required to pass an examination.

Sec. 25. NRS 637.045 is hereby amended to read as follows:

637.045 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 26. NRS 637.110 is hereby amended to read as follows:

637.110 1. An application for the issuance of a license as an apprentice dispensing optician must be accompanied by a fee of not more than \$250 to cover the costs of the Board and the initial licensing.

2. An application for the issuance of a license as a dispensing optician must be accompanied by a fee of not more than \$500 to cover the cost of the examination by the Board and the initial licensing.

3. The Board shall, if it approves an application for the issuance of a license as a dispensing optician, examine the applicant in ophthalmic dispensing, except that the Board may waive the examination of an applicant who is, at the time of application, licensed as a dispensing optician in another state.

4. ~~{To}~~ ***Except as otherwise provided in section 1 of this act, to*** pass the examination for the issuance of a license as a dispensing optician, an applicant must achieve a score of at least 70 percent.

Sec. 27. NRS 637A.090 is hereby amended to read as follows:

637A.090 1. Each member of the Board is entitled to receive a salary of not more than ~~{\$80}~~ ***\$150*** per day, as fixed by the Board, while engaged in the business of the Board.

2. All necessary expenses incurred by the Board in the performance of its duties must be evidenced on claims signed by the Chairman and Secretary and paid out of money received by the Board from fees.

3. While engaged in the business of the Board, each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 28. NRS 637B.130 is hereby amended to read as follows:

637B.130 1. A member of the Board is entitled to receive:

(a) A salary of not more than ~~{\$80}~~ ***\$150*** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 29. NRS 637B.170 is hereby amended to read as follows:

637B.170 1. Examinations for licensing must be given at least once a year at the time and place fixed by the Board.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. ~~[The]~~ ***Except as otherwise provided in section 1 of this act, the*** Board shall determine what constitutes a passing grade, except that in making that determination, the Board shall act fairly and impartially. ~~[If the Board elects to use a standard examination which is administered nationally, the Board may not establish a minimum passing grade which is higher than the national standard established for the examination.]~~

Sec. 30. NRS 638.040 is hereby amended to read as follows:

638.040 1. Members of the Board are entitled to receive:

(a) A salary of not more than ~~[\$80]~~ ***\$150*** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Salaries and expenses may be paid only to the extent that sufficient money is received from licensees.

Sec. 31. NRS 639.050 is hereby amended to read as follows:

639.050 1. The Board shall hold a meeting at least once in every 6 months.

2. Four members of the Board constitute a quorum.

3. Meetings of the Board which are held to deliberate on the decision in an administrative action or to prepare, grade or administer examinations are closed to the public.

4. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ ***\$150*** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 31.5. NRS 639.070 is hereby amended to read as follows:

639.070 1. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for ~~its services,~~ **the expedited processing of a request or for any other incidental service the Board provides,** other than those specifically set forth in this chapter.

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

(k) Employ an attorney, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 32. NRS 639.120 is hereby amended to read as follows:

639.120 1. An applicant to become a registered pharmacist in this State must:

(a) Be of good moral character.

(b) Be a graduate of a college of pharmacy or department of pharmacy of a university accredited by the ~~{American Council on Pharmaceutical}~~ **Accreditation Council for Pharmacy** Education or Canadian Council for Accreditation of Pharmacy Programs and approved by the Board or a graduate of a foreign school who has passed an examination for foreign graduates approved by the Board to demonstrate that his education is equivalent.

(c) ~~{Pass}~~ **Except as otherwise provided in section 1 of this act:**

(1) **Pass** an examination approved and given by the Board with a grade of at least 75 on the examination as a whole and a grade of at least 75 on the examination on law. ~~{An}~~

(2) **If he is an** applicant for registration by reciprocity, ~~{must}~~ pass the examination on law with at least a grade of 75.

(d) Complete not less than 1,500 hours of practical pharmaceutical experience as an intern pharmacist under the direct and immediate supervision of a registered pharmacist.

2. The practical pharmaceutical experience required pursuant to paragraph (d) of subsection 1 must relate primarily to the selling of drugs, poisons and devices, the compounding and dispensing of prescriptions, preparing prescriptions and keeping records and preparing reports required by state and federal statutes.

3. The Board may accept evidence of compliance with the requirements set forth in paragraph (d) of subsection 1 from boards of pharmacy of other states in which the experience requirement is equivalent to the requirements in this State.

Sec. 33. NRS 640.045 is hereby amended to read as follows:

640.045 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~{\\$80}~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 34. NRS 640C.170 is hereby amended to read as follows:

640C.170 Except as otherwise provided in NRS 640C.160, while engaged in the business of the Board:

1. Each member of the Board is entitled to receive a salary of not more than ~~{\\$80}~~ **\$150** per day, as established by the Board; and

2. Each member and employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

Sec. 35. NRS 640C.320 is hereby amended to read as follows:

640C.320 The Board shall adopt regulations to carry out the provisions of this chapter. The regulations must include, without limitation, provisions that:

1. Establish the requirements for continuing education for the renewal of a license;

2. Establish the requirements for the approval of a course of continuing education, including, without limitation, a course on a specialty technique of massage therapy;

3. Establish the requirements for the approval of an instructor of a course of continuing education;

4. Establish requirements relating to sanitation, hygiene and safety relating to the practice of massage therapy;

5. ~~Prescribe~~ ***Except as otherwise provided in section 1 of this act, prescribe*** the requirements for any practical, oral or written examination for a license that the Board may require, including, without limitation, the passing grade for such an examination; and

6. Establish the period within which the Board or its designee must report the results of the investigation of an applicant.

Sec. 36. NRS 641.140 is hereby amended to read as follows:

641.140 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ ***\$150*** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees paid or transmitted to the Board pursuant to the provisions of this chapter, and no part thereof may be paid out of the State Treasury.

Sec. 36.5. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the written examination, in addition to the actual cost to the Board of the examination\$100

For the special oral examination, in addition to the actual costs to the Board of the examination 100

For the issuance of an initial license	25
For the biennial renewal of a license	500
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license	100
For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology	300
For the registration of a nonresident to practice as a consultant	100

2. An applicant who passes the examination and is eligible for a license shall pay the biennial fee for the renewal of a license which must be prorated for the period from the date the license is issued to the end of the biennium.

3. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 37. NRS 641A.200 is hereby amended to read as follows:

641A.200 1. A member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. Compensation and expenses of the members and employees of the Board are payable out of the money derived from fees and penalties paid or transmitted to the Board pursuant to the provisions of this chapter, and no part thereof may be paid out of the State Treasury.

Sec. 38. NRS 641A.230 is hereby amended to read as follows:

641A.230 1. Except as otherwise provided in subsection 2, each qualified applicant for a license must be given a written examination by the Board on his knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine. ~~[A]~~ **Except as otherwise provided in section 1 of this act, a** grade of 70 percent is a passing grade.

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the American Association for Marriage and Family Therapy in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine in whatever applied or theoretical fields it deems appropriate.

Sec. 39. NRS 641B.140 is hereby amended to read as follows:

641B.140 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 40. (Deleted by amendment.)

Sec. 41. NRS 641C.170 is hereby amended to read as follows:

641C.170 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses, at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for officers and employees of this State generally.

Sec. 42. NRS 642.030 is hereby amended to read as follows:

642.030 1. Before entering upon their duties the members of the Board shall respectively take and subscribe to the oath required of other state officers. The Secretary of State is authorized to administer the oath, and each oath must be filed in his office.

2. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 43. NRS 643.030 is hereby amended to read as follows:

643.030 1. The Board shall elect a President. No person may serve as President for more than 4 consecutive years.

2. The Board shall elect a Vice President.

3. The Board shall elect a Secretary-Treasurer, who may or may not be a member of the Board. The Board shall fix the salary of the Secretary-Treasurer, which must not exceed the sum of \$3,600 per year.

4. Each officer and member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The Secretary-Treasurer shall:

(a) Keep a record of all proceedings of the Board.

(b) Give to this State a bond in the sum of \$3,000, with sufficient sureties, for the faithful performance of his duties. The bond must be approved by the Board.

Sec. 44. NRS 644.070 is hereby amended to read as follows:

644.070 1. The Board shall hold meetings at least four times a year for the examination of applicants for registration and for the transaction of such other business as pertains to its duties.

2. The Board may hold such other meetings for the examination of applicants for registration or for the transaction of necessary business at such times and places as it determines.

3. The members of the Board are entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. All such compensation and expenses must be paid by the Board out of the fees and receipts received by it, and no part thereof may be paid by the State.

Sec. 45. NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;

2. Is of good moral character;

3. Has completed a course provided by the Board relating to sanitation; and

4. ~~[Has]~~ ***Except as otherwise provided in section 1 of this act, has*** received a score of not less than 75 percent on the examination administered by the Board.

Sec. 46. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, manicurist, demonstrator of cosmetics and instructor expires :

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on ~~July 1 of~~ the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses issued for less than 1 1/2 years.

Sec. 47. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires :

(a) If the last name of the owner begins with the letter "A" through the letter "M," on ~~July 1 of~~ the date of birth of the owner in the next succeeding odd-numbered year.

(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.

2. *If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.*

3. *If a cosmetological establishment fails to pay the required fee ~~by October 1 of the year in which renewal of the license is required,~~ for renewal of its license within 90 days after the date of expiration of the license,* the establishment must be immediately closed.

Sec. 48. NRS 645.140 is hereby amended to read as follows:

645.140 1. Except as otherwise provided in this section, all fees, penalties and charges received by the Division pursuant to NRS 645.410, 645.660 and 645.830 must be deposited with the State Treasurer for credit to the State General Fund. The fees received by the Division:

(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.

(b) For examinations, must be retained by the Division to pay the costs of the administration of examinations.

➤ Any surplus of the fees retained by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.

3. Each member of the Commission is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 49. NRS 645C.200 is hereby amended to read as follows:

645C.200 1. The Commission shall:

(a) Operate on the basis of a fiscal year beginning on July 1 and ending on June 30.

(b) At the first meeting of each fiscal year, elect a President, Vice President and Secretary to serve for the ensuing year.

(c) Hold at least two meetings each year, one in the southern part of the State and one in the northern part of the State, at times and places designated by the Commission. When there is sufficient business, additional meetings of the Commission may be held at the call of the President of the Commission. Written notice of the time, place and purpose of each meeting must be given to each member at least 3 working days before the meeting.

2. While engaged in the business of the Commission, each member of the Commission is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 50. NRS 648.020 is hereby amended to read as follows:

648.020 1. The Private Investigator's Licensing Board, consisting of the Attorney General or his deputy and four members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) One member who is a private investigator.

(b) One member who is a private patrolman.

(c) One member who is a polygraphic examiner.

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

(1) A licensee; or

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

3. The Chairman of the Board is the Attorney General or a deputy attorney general designated by the Attorney General to act in that capacity.

4. Each member of the Board, except the Chairman, is entitled to receive:

(a) A salary of not more than ~~[\$80,]~~ **\$150**, as fixed by the Board, for each day or portion of a day during which he attends a meeting of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

5. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

6. The member who is a representative of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 51. NRS 656.070 is hereby amended to read as follows:

656.070 1. Each member of the Board is entitled to receive:

(a) A salary of not more than ~~[\$80]~~ **\$150** per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

3. The expenses of the members and employees of the Board and the expenses of the Board must be paid from the fees collected pursuant to the provisions of this chapter and the expenses must not exceed the amount so collected.

Sec. 51.5. NRS 656.220 is hereby amended to read as follows:

656.220 1. The fees required by this chapter are fixed by the following schedule:

(a) The fee for filing an application for an examination must be fixed by the Board annually at not more than \$250 and not less than \$90.

(b) The fee for the original issuance of a certificate must be fixed by the Board annually at not more than \$250 and not less than \$150.

(c) For a certificate issued after July 1, 1973, the fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued, except that if the certificate will expire less than 1 year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued. The Board may by regulation provide for the waiver or refund of the initial certificate fee if the certificate is issued less than 45 days before the date on which it will expire.

(d) The annual renewal fee for a certificate must be fixed by the Board annually at not more than \$250 and not less than \$150. Every holder of a

certificate desiring renewal must pay the annual renewal fee to the board on or before May 15 of each year.

(e) For the renewal of a certificate which was suspended for failure to renew, the fee is an amount equal to all unpaid renewal fees accrued plus a reinstatement fee that must be fixed by the Board annually at not more than \$125 and not less than \$75.

(f) The fee for the original issuance of a license as a court reporting firm is \$250.

(g) The fee for the annual renewal of a license as a court reporting firm is \$175.

(h) The fee for the reinstatement of a license as a court reporting firm is \$175.

2. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost incurred by the Board to provide the service.

Sec. 52. NRS 353.333 is hereby amended to read as follows:

353.333 1. On or before January 1 of each year, the Governor shall compile a report on the status of the finances of the State including the information published in:

(a) The most recent executive budget report prepared pursuant to the provisions of NRS 353.185;

(b) The most recent report prepared by the State Controller pursuant to the provisions of NRS 227.110;

(c) The most recent report on the count of state money prepared pursuant to the provisions of NRS 353.075;

(d) The most recent report on the transactions and proceedings of the Department of Taxation prepared pursuant to the provisions of NRS 360.100;

(e) ~~The most recent report prepared by each regulatory agency pursuant to the provisions of NRS 622.110;~~

~~(f)~~ The most recent report prepared by each school district pursuant to the provisions of NRS 387.303;

~~(g)~~ (f) The most recent report prepared and submitted by each local government pursuant to the provisions of NRS 360.220; and

~~(h)~~ (g) Any other report prepared by the State, or a county, city, town or school district, or any public agency of this State or its political subdivisions that the Governor deems to be relevant to the status of finances of the State.

2. The report required pursuant to subsection 1 must be:

(a) Titled the "Nevada Report to Taxpayers";

(b) Written in plain English; and

(c) Contain such information as the Governor deems appropriate to provide a full and accurate description on the status of the finances of the State, including, without limitation:

(1) The total amount of revenue collected by the State or an agency of the State during the preceding fiscal year;

(2) The actual total of all expenses and expenditures by the State or an agency of the State during the preceding fiscal year;

(3) A comparison of the total amount appropriated or authorized for expenditure by the State during the preceding fiscal year and the actual total of all expenses and expenditures by the State during the preceding fiscal year;

(4) The total amount of outstanding public debt of the State at the end of the preceding fiscal year;

(5) The total cost to pay the public debt of the State during the preceding fiscal year; and

(6) Such information on the revenue, expenditures and public debt of the State, or a county, city, town or school district, or any public agency of this State or its political subdivisions as the Governor deems necessary to provide a full and accurate description on the status of the finances of the State.

3. The Governor shall make the report required pursuant to subsection 1 available for access by the public on the Internet or its successor, if any.

Sec. 53. NRS 622.110 is hereby repealed.

Sec. 54. 1. The Legislative Committee on Health Care shall appoint a subcommittee to review the regulation of providers of health care in Nevada. The subcommittee must consist of:

(a) Two members of the Legislative Committee on Health Care appointed by the Chairman of that Committee;

(b) The Chairman of the Senate Standing Committee on Human Resources and Education;

(c) A member of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee;

(d) The Chairman of the Assembly Standing Committee on Health and Human Services; and

(e) A member of the Assembly Standing Committee on Commerce and Labor during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman.

3. The subcommittee shall:

(a) Conduct:

(1) A review of the laws of this State relating to the scope of practice authorized for providers of health care.

(2) A study concerning the operation of the professional licensing boards for providers of health care with respect to barriers to licensing.

(b) Not later than June 30, 2008, submit a report of the results of its review and study and any recommendations for legislation to the Legislative Committee on Health Care.

4. The subcommittee may contract with such experts, researchers and consultants as may be necessary for the subcommittee to carry out its duties.

Sec. 55. 1. This act becomes effective upon passage and approval.

2. Section 54 of this act expires by limitation on June 30, 2008.

TEXT OF REPEALED SECTION

622.110 Reports of regulatory activities; contents of reports; duties of Director of Legislative Counsel Bureau.

1. Each regulatory body shall, on or before November 1 of each even-numbered year, submit a report of its activities to the Director of the Legislative Counsel Bureau.

2. The report must include, without limitation:

(a) The number of licenses issued by the regulatory body during the immediately preceding 2 fiscal years;

(b) A summary of the budget of the regulatory body during the immediately preceding 2 fiscal years that is related to the duties of the regulatory body pursuant to this title, including, without limitation, a description of all income and expenditures related to such duties;

(c) A summary of each disciplinary action taken by the regulatory body during the immediately preceding 2 fiscal years against any licensee of the regulatory body; and

(d) Any other information that is requested by the Director of the Legislative Counsel Bureau or which the regulatory body determines would be helpful to the Legislature in evaluating whether the continued existence of the regulatory body is necessary.

3. The Director of the Legislative Counsel Bureau shall compile all the reports he receives and distribute copies of the compilation to the Senate Standing Committee on Commerce and Labor and the Assembly Standing Committee on Commerce and Labor, which each shall review the compilation to determine whether the continued existence of each regulatory body is necessary.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 314.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 860.

AN ACT relating to residential facilities; requiring that certain facilities ~~[for independent living]~~ and entities provide notice of the limitations on the services provided at the facility and certain other information; requiring the Aging Services Division of the Department of Health and Human Services to develop the required notice; requiring the Department to develop a brochure

and website to assist older persons in determining the appropriate level of care and type of facility they require to meet their needs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensing and regulation of certain facilities and services for dependent persons. (Chapter 449 of NRS) Some facilities that serve as residences for independent living are not required to be licensed pursuant to chapter 449 of NRS. In some situations, such a facility may contain some units that are subject to licensure because of the services that they provide and other units that are not subject to licensure because they do not provide those services. Section 3 of this bill requires **certain** facilities which ~~are not licensed pursuant to chapter 449 of NRS and which~~ offer independent living to provide notice of the limitations on the services provided and certain other information. Section 4 of this bill requires the Department of Health and Human Services to develop a brochure and a website to assist older persons seeking residential care or services in determining the appropriate level of care and services available at different facilities.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~“Residential facility for independent living” means a facility that does not provide care or services which require licensure pursuant to this chapter, including, without limitation, a facility that is affiliated with or shares property with another facility which is required to be licensed pursuant to this chapter.~~ (Deleted by amendment.)

Sec. 3. 1. A ~~residential facility for independent living~~ facility for the dependent, a medical facility, a home for individual residential care or an entity affiliated with such a facility or home which offers housing to persons that does not include the provision of care or services which require licensure pursuant to this chapter shall conspicuously post in the facility or home and shall include in any contracts of sale or agreements for occupancy a notice that includes the following information:

(a) That the specific area of the facility or home is intended for independent living and does not directly provide or coordinate the oversight of services to meet the scheduled and unscheduled needs of its residents, including, without limitation, the provision of personal care, supportive services and health-related services.

(b) The other levels of care that are available to persons who require personal care, supportive services or health-related services, including, without limitation, residential facilities for groups, facilities for intermediate care and facilities for skilled nursing. The notice must

describe the facilities and levels of care in language that is easy to understand.

(c) A statement that encourages residents to reassess on a regular basis the type of housing and care that is most appropriate for them.

2. The Aging Services Division of the Department of Health and Human Services shall develop the language for the notice required by subsection 1 in consultation with nationally recognized advocacy groups for older persons and housing organizations.

3. For the purposes of this section, an entity is affiliated with a facility or home described in subsection 1 if:

(a) It is under common or shared ownership;

(b) It is under common or shared management; or

(c) It receives promotional or marketing support from the facility or home.

Sec. 4. 1. The Department of Health and Human Services shall develop a brochure and website to assist persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs. The brochure and website must include, without limitation:

~~1-1~~ (a) The various types of housing and levels of care that are available to persons who are 55 years of age or older, including, without limitation, ~~residential facilities for independent living,~~ residential facilities for groups, facilities for intermediate care and facilities for skilled nursing, distinguishing the varying degree of services that are offered by the different types of facilities; ~~and~~

~~2-1~~ (b) Whether individual facilities accept payment through Medicaid or Medicare for the level of care and type of housing that the facilities provide;

(c) The manner in which a person may obtain information concerning whether the facility has ever been found to have violated the provisions of this chapter; and

(d) Such other information as the Department deems to be beneficial to persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs.

2. As used in this section:

(a) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(b) "Medicare" has the meaning ascribed to it in NRS 439B.130.

*Sec. 5. ~~NRS 449.001 is hereby amended to read as follows:~~
~~449.001—As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.~~
 (Deleted by amendment.)*

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 432.

Bill read second time.

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

Amendment No. 723.

SUMMARY—Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning **alternative and** complementary integrative medicine, homeopathic medicine **and nonembryonic stem cells** and **eliminates** the Nevada Institutional Review Board. (BDR ~~[S-694]~~ **54-694**)

AN ACT relating to health; **eliminating the Nevada Institutional Review Board**; directing the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning **alternative and** complementary integrative medicine, homeopathic medicine and the ~~Nevada Institutional Review Board~~; **use of nonembryonic stem cells in bioregenerative medical technology**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the practice of homeopathic medicine and the operation of the Nevada Institutional Review Board. (Chapter 630A of NRS) **Sections 1-4 of this bill eliminate the Nevada Institutional Review Board.**

The Legislative Committee on Health Care is a permanent statutory committee of Legislators that meets during the interim between legislative sessions to study various issues relating to health care. (NRS 439B.200-439B.240) ~~[This bill requires]~~ **Section 5 of this bill requires** the Committee to appoint a subcommittee to review issues relating to **alternative and** complementary integrative medicine, homeopathic medicine and the ~~Nevada Institutional Review Board~~; **use of nonembryonic stem cells in bioregenerative medical technology.**

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

Section 1. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. ~~[Except as otherwise provided in NRS 630A.800 to 630A.910, inclusive, this]~~ **This** chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 2. NRS 630A.155 is hereby amended to read as follows:

630A.155 The Board shall:

1. Regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State.

2. Determine the qualifications of, and examine, applicants for licensure or certification pursuant to this chapter, and specify by regulation the methods to be used to check the background of such applicants.

3. License or certify those applicants it finds to be qualified.

4. Investigate and, if required, hear and decide in a manner consistent with the provisions of chapter 622A of NRS all complaints made against any homeopathic physician, advanced practitioner of homeopathy, homeopathic assistant or any agent or employee of any of them, or any facility where the primary practice is homeopathic medicine. If a complaint concerns a practice which is within the jurisdiction of another licensing board or any other possible violation of state law, the Board shall refer the complaint to the other licensing board.

5. ~~Supervise the Nevada Institutional Review Board created by NRS 630A.865, including, without limitation, approving or denying the regulations adopted by the Nevada Institutional Review Board.~~

6. Submit an annual report to the Legislature and make recommendations to the Legislature concerning the enactment of legislation relating to alternative and complementary integrative medicine, including, without limitation, homeopathic medicine.

Sec. 3. NRS 630A.800, 630A.815, 630A.825, 630A.835, 630A.855, 630A.865, 630A.870, 630A.875, 630A.880, 630A.900, 630A.905 and 630A.910 are hereby repealed.

Sec. 4. 1. The Nevada Institutional Review Board shall, not later than July 1, 2007:

(a) Return the unexpended portion of any grant, gift, appropriation or donation that was received by the Board subject to a condition that

requires its return if it cannot be used to carry out the duties of the Board;

(b) Transfer any money that remains in any account maintained by the Nevada Institutional Review Board after complying with paragraph (a) to the Board of Homeopathic Medical Examiners; and

(c) Transfer all books, records, minutes, documents and other property of the Nevada Institutional Review Board to the Board of Homeopathic Medical Examiners.

2. Any regulations adopted by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, are void on July 1, 2007. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, 2007.

3. Any contract entered into by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, including, without limitation, a contract for employment and a contract for the services of a person pursuant to NRS 284.013, that is not fully performed on July 1, 2007, is void.

4. If the Board of Homeopathic Medical Examiners has created a nonprofit organization pursuant to NRS 630A.875, including, without limitation, the NIRB Medical Foundation, the Board of Homeopathic Medical Examiners shall, not later than July 1, 2007, dissolve the nonprofit organization.

5. The Nevada Institutional Review Board shall cooperate with the Board of Homeopathic Medical Examiners to ensure that the provisions of this act are carried out in an orderly manner.

6. The terms of the members of the Nevada Institutional Review Board expire on July 1, 2007.

~~{Section 4}~~ **Sec. 5.** 1. The Legislative Committee on Health Care shall appoint a subcommittee to review issues concerning **alternative and complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board.** **use of nonembryonic stem cells in bioregenerative medical technology.** The subcommittee must consist of:

(a) One member of the Legislative Committee on Health Care who is a member of the Senate appointed by the Chairman of that Committee;

(b) Two members of the Legislative Committee on Health Care who are members of the Assembly appointed by the Chairman of that Committee;

(c) Two members of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee; and

(d) One member of the Assembly Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman of the subcommittee.

3. The review must include, without limitation:

(a) A review of the status and operation of the Board of Homeopathic Medical Examiners ~~and the Nevada Institutional Review Board;~~

~~(b) An examination of the advisability of making the Nevada Institutional Review Board an independent body;~~

~~(c) ;~~

(b) An examination of the practice of **alternative and** complementary integrative medicine, including:

(1) The scope of the practice;

(2) Any laws governing the practice; and

(3) The importance, benefits and value of the practice to this State and the residents of and visitors to this State; ~~and~~

~~(c)~~ (c) An examination of the potential for and advisability of an independent board and statutory structure to govern the practice of **alternative and** complementary integrative medicine ~~;~~ **and**

(d) **An examination of the use of nonembryonic stem cells in bioregenerative medical technology, including, without limitation, methods to encourage the performance in this State of research and development concerning the use of nonembryonic stem cells.**

4. Not later than June 30, 2008, the subcommittee shall submit a report of the results of its review and any recommendations for legislation to the Legislative Committee on Health Care. The Legislative Committee on Health Care shall submit the report of the results of the review and any recommendations for legislation to the 75th Session of the Nevada Legislature.

~~[Sec. 2.]~~ **Sec. 6. 1. This ~~act becomes~~ section and section 4 of this act become effective upon passage and approval.**

2. Sections 1, 2, 3 and 5 of this act become effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

630A.800 Definitions.

630A.815 "Practitioner" defined.

630A.825 "Research study" defined.

630A.835 "Researcher" defined.

630A.855 Applicability.

630A.865 Creation; supervision; appointment of members; period of service; vacancies; per diem allowance and travel expenses; quorum; officers; meetings; rules of procedure.

630A.870 Oath.

630A.875 Funding of Review Board; limitations.

630A.880 Deposit and use of money received by Review Board.

630A.900 Adoption of regulations.

630A.905 Administrative powers and duties.**630A.910 Requirements governing researchers and research studies.**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 542.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 838.

SUMMARY—Revises provisions governing ~~the homestead exemption.~~ exemptions from execution by creditors. (BDR 2-1364)

AN ACT relating to property; **providing an exemption from execution for certain security deposits made to rent or lease a dwelling**; increasing the amount of the homestead exemption; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a writ of execution up to a specified monetary value. (NRS 21.090) In addition, existing law protects from a forced sale up to \$350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010) Sections 2 and 4 of this bill increase the amount of equity protected in homestead property from \$350,000 to ~~[\$550,000]~~ **\$450,000. Section 2 also provides an additional exemption from execution for all money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used as the judgment debtor's primary residence.**

Sections 1 and 3 of this bill revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes ~~in the homestead exemption~~ authorized by this bill. (NRS 21.075, 31.045)

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$350,000,] ~~[\$550,000,] \$450,000,~~ unless:~~

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. **All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.**

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~{11}~~ **12.** Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~{12}~~ **13.** Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~{13}~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~{14}~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~{15}~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~{16}~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~{17}~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~{18}~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{19}~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{20}~~ 21. Payments received as restitution for a criminal act.

➡ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If

you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph ~~(e)~~ (p), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs ~~[(n), (r) and (s)]~~ **(o), (s) and (t)**, the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed ~~[\$350,000] ~~[\$550,000]~~ \$450,000~~ in value and the dwelling is situated upon lands not owned by him.

(n) **All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence.**

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

~~((p))~~ (p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

~~((p))~~ (q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

~~((q))~~ (r) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~((s))~~ (s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~((t))~~ (t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~((u))~~ (u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and

suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~[(u)]~~ (v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[(w)]~~ (w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[(x)]~~ (x) Payments received as restitution for a criminal act.

~~[(y)]~~ (y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➡ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account

or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$350,000.]~~ ~~[\$550,000.]~~ \$450,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. *All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.*

11. A vehicle, if your equity in the vehicle is less than \$15,000.

~~11.~~ 12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

~~12.~~ 13. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

~~{13.}~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

~~{14.}~~ 15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

~~{15.}~~ 16. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~{16.}~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~{17.}~~ 18. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~{18.}~~ 19. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{19.}~~ 20. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~{20.}~~ 21. Payments received as restitution for a criminal act.

↪ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 4. NRS 115.010 is hereby amended to read as follows:

115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed ~~[\$350,000] ~~[\$550,000]~~ \$450,000~~ in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.

3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:

(a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or

(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

↪ by both husband and wife, when that relation exists.

4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:

(a) Any mortgage or deed of trust thereon; and

(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

↪ unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.

5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to 207.520, inclusive.

6. Any declaration of homestead which has been filed before July 1, ~~{2005,}~~ **2007**, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, ~~{2005,}~~ **2007**.

Sec. 5. NRS 115.050 is hereby amended to read as follows:

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated ~~{,}~~ that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of ~~{ \$350,000,}~~ ~~{ \$550,000,}~~ **\$450,000,** the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property ~~{,}~~ and , if the amount of equity exceeds the sum of ~~{ \$350,000,}~~ ~~{ \$550,000,}~~ **\$450,000,** determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out

of the proceeds the sum of ~~[\$350,000]~~ ~~[\$550,000]~~ \$450,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under ~~[\$350,000]~~ ~~[\$550,000]~~ \$450,000 may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the ~~[\$350,000]~~ ~~[\$550,000]~~ \$450,000 to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

Sec. 5.5. NRS 657.140 is hereby amended to read as follows:

657.140 1. Except as otherwise provided in subsection 2, a financial institution shall not include in any loan agreement a provision that allows the financial institution to recover, take, appropriate or otherwise apply as a setoff against any debt or liability owing to the financial institution under the loan agreement money from an account unrelated to the loan agreement to the extent the money is exempt from execution pursuant to paragraph ~~(x)~~ (y) of subsection 1 of NRS 21.090.

2. The provisions of subsection 1 do not apply to a provision in a loan agreement that specifically authorizes automatic withdrawals from an account.

3. The provisions of this section may not be varied by agreement and the rights conferred by this section may not be waived. Any provision included in an agreement that conflicts with this section is void.

4. As used in this section:

(a) "An account unrelated to the loan agreement" includes, without limitation, an account pledged as security under the loan agreement, unless the specific account pledged as security is conspicuously described in the loan agreement.

(b) "Financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 4.

Bill read second time and ordered to third reading.

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

Assembly in recess at 11:42 a.m.

ASSEMBLY IN SESSION

At 11:51 a.m.

Madam Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 128.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 128:

YEAS—41.

NAYS—Hardy.

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

Bill ordered transmitted to the Senate.

Assembly Bill No. 150.

Bill read third time.

The following amendment was proposed by Assemblywoman Weber:

Amendment No. 892.

AN ACT relating to controlled substances; making various changes pertaining to crimes related to the use or manufacturing of methamphetamine and other controlled substances; revising various provisions pertaining to nuisances; making various changes relating to lithium metal, sodium metal and anhydrous ammonia; enacting provisions relating to the sale or transfer of certain precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes pertaining to methamphetamine and other controlled substances.

Section 40 of this bill prohibits a person from: (1) selling or transferring in the course of business a product that is a precursor to methamphetamine; or (2) engaging in the business of selling at retail a product that is a precursor to methamphetamine, unless the person is a pharmacy or the holder of a permit which allows the person to sell or transfer products that are precursors to methamphetamine. A person who violates these prohibitions is guilty of a category C felony. To obtain a permit to sell or transfer products that are precursors to methamphetamine, a person must submit an application to the State Board of Pharmacy and pay a fee of \$200. The Board must issue a permit to a person if the Board determines, after considering certain factors, that the person will safely and lawfully sell products that are precursors to methamphetamine.

Section ~~441~~ **41.5** of this bill ~~requires~~ **provides that if** a pharmacy or ~~the~~ holder of a permit ~~to: (1) comply with state and federal law concerning the sale and transfer of products that are precursors to methamphetamine; and~~

~~(2) submit to the Department of Public Safety a quarterly report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine.]~~ **becomes aware of any unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine, the pharmacy or holder of a permit must report the loss or disappearance to the Department of Public Safety.** If a pharmacy or ~~permit~~ holder of a permit does not comply with ~~either of these requirements,~~ **this requirement,** section 45 allows the State Board of Pharmacy to take certain disciplinary action against the pharmacy or ~~permit~~ holder ~~of a permit.~~

Section 2 of this bill prohibits the possession or disposition of chemical waste or debris resulting from the manufacture of methamphetamine. Section 3 of this bill prohibits the possession of lithium metal or sodium metal under certain circumstances.

Existing law prohibits a person from possessing certain chemicals with the intent to manufacture or compound a controlled substance other than marijuana. (NRS 453.322) Section 7 of this bill adds lithium metal and sodium metal to the list of prohibited chemicals. Section 7 also prohibits a person from providing such a chemical to another person with the intent that it be used in the manufacturing or compounding of a controlled substance other than marijuana.

Existing law provides that a building or place used to unlawfully manufacture a controlled substance is a nuisance, which creates civil liability, and a public nuisance, which is punishable criminally. (NRS 40.140, 202.450, 202.470) Sections 10 and 11 of this bill provide that a building or place that was used to unlawfully manufacture a controlled substance is both a nuisance and a public nuisance if certain activities relating to the decontamination of the building or place have not occurred within a certain period.

Section 12 of this bill provides that a person commits first degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages a dwelling house or personal property that is occupied by one or more persons. Section 13 of this bill provides that a person commits second degree arson if, by knowingly engaging in the manufacture of methamphetamine, the person sets fire to or causes an explosion that damages any abandoned building or structure. Section 14 of this bill provides that a person is guilty of a category B felony if the person commits the theft of certain chemicals that are precursors to controlled substances, regardless of the value of those chemicals.

Sections 21-32 of this bill require the State Department of Agriculture, in consultation with the Department of Public Safety, to certify substances that are added to anhydrous ammonia for the purpose of rendering the anhydrous ammonia unusable or undesirable for the manufacture of methamphetamine. To assist in advising the State Department of Agriculture on the certification of such substances, sections 32 and 33 of this bill create the Anhydrous Ammonia Advisory Committee.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as section 2 and 3 of this act.

Sec. 2. 1. *Except as otherwise provided in subsection 2, a person who knowingly possesses or disposes of methamphetamine manufacturing waste is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

2. *A person does not violate subsection 1 if the person:*

(a) *Possesses or disposes of the methamphetamine manufacturing waste pursuant to state or federal laws regulating the storage, cleanup or disposal of waste products from unlawful methamphetamine manufacturing;*

(b) *Has notified a law enforcement agency of the existence of the methamphetamine manufacturing waste; or*

(c) *Possesses or disposes of methamphetamine manufacturing waste that had previously been disposed of by another person on the person's property in violation of subsection 1.*

3. *As used in this section:*

(a) *"Disposes of" means to discharge, deposit, inject, spill, leak or place methamphetamine manufacturing waste into or onto land or water.*

(b) *"Methamphetamine manufacturing waste" means chemical waste or debris, used in or resulting from:*

(1) *The manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or*

(2) *The grinding, soaking or otherwise breaking down of a substance that is a precursor for the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.*

Sec. 3. 1. *Except as otherwise provided in this subsection, it is unlawful for a person to knowingly or intentionally possess lithium metal or sodium metal. A person does not violate this subsection if the person:*

(a) *Is conducting a lawful manufacturing operation that involves the use of lithium metal or sodium metal;*

(b) *Possesses lithium metal or sodium metal in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:*

(1) *Regularly established public or private secondary school; or*

(2) *Public or private institution of higher education that is accredited by a national or regional accrediting agency recognized by the United States Department of Education;*

(c) *Is a retail distributor, wholesaler, manufacturer, warehouseman or common carrier, or an agent of any of those persons, who possesses lithium metal or sodium metal in the regular course of lawful business activities; or*

(d) Possesses lithium metal or sodium metal as a component of a commercially produced product, including, without limitation, rechargeable batteries.

2. A person who violates this section is guilty of a gross misdemeanor.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 453.322 is hereby amended to read as follows:

453.322 1. Except as authorized by the provisions of NRS 453.011 to 453.552, inclusive, it is unlawful for a person to knowingly or intentionally:

(a) Manufacture or compound a controlled substance other than marijuana.

(b) Possess, with the intent to manufacture or compound a controlled substance other than marijuana ~~[-]~~ , **or sell, exchange, barter, supply, prescribe, dispense or give away, with the intent that the chemical be used to manufacture or compound a controlled substance other than marijuana:**

(1) Any chemical identified in subsection 4; or

(2) Any other chemical which is proven by expert testimony to be commonly used in manufacturing or compounding a controlled substance other than marijuana. The district attorney may present expert testimony to provide a prima facie case that any chemical, whether or not it is a chemical identified in subsection 4, is commonly used in manufacturing or compounding such a controlled substance.

↪ The provisions of this paragraph do not apply to a person who, without the intent to commit an unlawful act, possesses any chemical at a laboratory that is licensed to store the chemical.

(c) Offer or attempt to do any act set forth in paragraph (a) or (b).

2. Unless a greater penalty is provided in NRS 453.3385 or 453.3395, a person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$100,000.

3. The court shall not grant probation to a person convicted pursuant to this section.

4. The following chemicals are identified for the purposes of subsection 1:

(a) Acetic anhydride.

(b) Acetone.

(c) N-Acetylanthranilic acid, its esters and its salts.

(d) Anthranilic acid, its esters and its salts.

(e) Benzaldehyde, its salts, isomers and salts of isomers.

(f) Benzyl chloride.

(g) Benzyl cyanide.

(h) 1,4-Butanediol.

(i) 2-Butanone (or methyl ethyl ketone or MEK).

- (j) Ephedrine, its salts, isomers and salts of isomers.
- (k) Ergonovine and its salts.
- (l) Ergotamine and its salts.
- (m) Ethylamine, its salts, isomers and salts of isomers.
- (n) Ethyl ether.
- (o) Gamma butyrolactone.
- (p) Hydriodic acid, its salts, isomers and salts of isomers.
- (q) Hydrochloric gas.
- (r) Iodine.
- (s) Isosafrole, its salts, isomers and salts of isomers.
- (t) ***Lithium metal.***
- (u) Methylamine, its salts, isomers and salts of isomers.
- ~~{(u)}~~ (v) 3,4-Methylenedioxy-phenyl-2-propanone.
- ~~{(v)}~~ (w) N-Methylephedrine, its salts, isomers and salts of isomers.
- ~~{(w)}~~ (x) Methyl isobutyl ketone (MIBK).
- ~~{(x)}~~ (y) N-Methylpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(y)}~~ (z) Nitroethane, its salts, isomers and salts of isomers.
- ~~{(z)}~~ (aa) Norpseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(aa)}~~ (bb) Phenylacetic acid, its esters and its salts.
- ~~{(bb)}~~ (cc) Phenylpropanolamine, its salts, isomers and salts of isomers.
- ~~{(cc)}~~ (dd) Piperidine and its salts.
- ~~{(dd)}~~ (ee) Piperonal, its salts, isomers and salts of isomers.
- ~~{(ee)}~~ (ff) Potassium permanganate.
- ~~{(ff)}~~ (gg) Propionic anhydride, its salts, isomers and salts of isomers.
- ~~{(gg)}~~ (hh) Pseudoephedrine, its salts, isomers and salts of isomers.
- ~~{(hh)}~~ (ii) Red phosphorous.
- ~~{(ii)}~~ (jj) Safrole, its salts, isomers and salts of isomers.
- ~~{(jj)}~~ (kk) ***Sodium metal.***
- (ll) Sulfuric acid.
- ~~{(kk)}~~ (mm) Toluene.

Sec. 8. NRS 453.553 is hereby amended to read as follows:

453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, ***and sections 2 and 3 of this act***, any person who unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.

2. As used in ~~{this section and}~~ NRS ~~{453.5531, 453.5532 and}~~ ***453.553 to 453.5533*** ~~{, inclusive:}~~, ***inclusive:***

(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.

(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 40.140 is hereby amended to read as follows:

40.140 1. Except as otherwise provided in this section ~~[, anything]~~:

(a) **Anything** which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ~~[, including, without limitation, a]~~;

(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043,]~~; or

(c) **A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:**

(1) **Which has not been deemed safe for habitation by a governmental entity; or**

(2) **From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog,**

↪ is a nuisance, and the subject of an action. The action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered.

2. It is presumed:

(a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety.

(b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

3. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997.

➡ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

4. As used in this section ~~[“shooting”]~~:

(a) ***“Controlled substance analog” has the meaning ascribed to it in NRS 453.043;***

(b) ***“Immediate precursor” has the meaning ascribed to it in NRS 453.086; and***

(c) ***“Shooting range”*** means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.

Sec. 11. NRS 202.450 is hereby amended to read as follows:

202.450 1. A public nuisance is a crime against the order and economy of the State.

2. Every place:

(a) Wherein any gambling, bookmaking or pool selling is conducted without a license as provided by law, or wherein any swindling game or device, or bucket shop, or any agency therefor is conducted, or any article, apparatus or device useful therefor is kept;

(b) Wherein any fighting between animals or birds is conducted;

(c) Wherein any dog races are conducted as a gaming activity;

(d) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution;

(e) Wherein a controlled substance, immediate precursor ~~[as defined in NRS 453.086]~~ or controlled substance analog ~~[as defined in NRS 453.043]~~ is unlawfully sold, served, stored, kept, manufactured, used or given away; or

(f) Where vagrants resort,

➡ is a public nuisance.

3. Every act unlawfully done and every omission to perform a duty, which act or omission:

(a) Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons;

(b) Offends public decency;

(c) Unlawfully interferes with, befouls, obstructs or tends to obstruct, or renders dangerous for passage, a lake, navigable river, bay, stream, canal, ditch, millrace or basin, or a public park, square, street, alley, bridge, causeway or highway; or

(d) In any way renders a considerable number of persons insecure in life or the use of property,

↪ is a public nuisance.

4. *A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog is a public nuisance if the building or place has not been deemed safe for habitation by a governmental entity and:*

(a) *The owner of the building or place allows the building or place to be used for any purpose before all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have been removed from or remediated on the building or place by an entity certified or licensed to do so; or*

(b) *The owner of the building or place fails to have all materials or substances involving the controlled substance, immediate precursor or controlled substance analog removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.*

5. Agricultural activity conducted on farmland consistent with good agricultural practice and established before surrounding nonagricultural activities is not a public nuisance unless it has a substantial adverse effect on the public health or safety. It is presumed that an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice.

~~{5-}~~ 6. A shooting range is not a public nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise:

(a) As those provisions existed on October 1, 1997, for a shooting range that begins operation on or before October 1, 1997; or

(b) As those provisions exist on the date that the shooting range begins operation, for a shooting range in operation after October 1, 1997.

↪ A shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law.

~~{6-}~~ 7. As used in this section ~~{, "shooting"}~~:

(a) *"Controlled substance analog" has the meaning ascribed to it in NRS 453.043;*

(b) *"Immediate precursor" has the meaning ascribed to it in NRS 453.086; and*

(c) *"Shooting range" has the meaning ascribed to it in NRS 40.140.*

Sec. 12. NRS 205.010 is hereby amended to read as follows:

205.010 A person who ~~{willfully}~~:

1. **Willfully** and maliciously sets fire to or burns or causes to be burned ~~{, or who aids,}~~;

2. *Aids*, counsels or procures the burning of ~~any~~:

~~1. Dwelling~~; *or*

3. *By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,*

↪ *any dwelling* house or other structure or mobile home, whether occupied or vacant ~~or~~

~~2. Personal~~ *and whether the property of himself or another, or personal* property which is occupied by one or more persons, ~~or~~

↪ whether the property of himself or of another, is guilty of arson in the first degree which is a category B felony and shall be punished by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$15,000.

Sec. 13. NRS 205.015 is hereby amended to read as follows:

205.015 A person who ~~willfully~~:

1. *Willfully* and maliciously sets fire to or burns or causes to be burned ~~or who aids~~;

2. *Aids*, counsels or procures the burning of; *or*

3. *By knowingly engaging in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine, sets fire to or causes an explosion that damages,*

↪ any abandoned building or structure, whether the property of himself or of another, is guilty of arson in the second degree which is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

Sec. 14. NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, shall be punished pursuant to the provisions of this section.

2. ~~¶¶~~ *Except as otherwise provided in subsection 3, if* the value of the property or services involved in the theft ~~is~~:

(a) *Is* less than \$250, the person who committed the theft is guilty of a misdemeanor.

~~3. If the value of the property or services involved in the theft is~~

(b) *Is* \$250 or more but less than \$2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~4.~~ 3. If the value of the property or services involved in the theft is \$2,500 or more ~~or~~ *or if the property involved in the theft is a chemical identified in subsection 4 of NRS 453.322*, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a

maximum term of not more than 10 years, and by a fine of not more than \$10,000.

~~{5-}~~ 4. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

Sec. 15. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may make the expense a special assessment against the property upon which the chronic nuisance is located or occurring. The special

assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property . ~~{+}~~

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property . ~~{+}~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS . ~~{+ or}~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog . ~~{as defined in NRS 453.043.}~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) “Controlled substance analog” has the meaning ascribed to it in NRS 453.043.

(c) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.

(d) “Nuisance activity” means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~{(e)}~~ (e) “Person associated with the property” means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

- (I) Entered, patronized or visited;
- (II) Attempted to enter, patronize or visit; or
- (III) Waited to enter, patronize or visit,

→ the property or a person present on the property.

Sec. 16. NRS 244.363 is hereby amended to read as follows:

244.363 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.

Sec. 17. NRS 266.335 is hereby amended to read as follows:

266.335 The city council may:

1. Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances.

2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances.

3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:

(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien.

(b) Be coequal with the latest lien thereon to secure the payment of general taxes.

(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes.

(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

4. Provide any other penalty or punishment of persons responsible for the nuisances.

Sec. 18. NRS 268.412 is hereby amended to read as follows:

268.412 Except as otherwise provided in subsection 3 of NRS 40.140 and subsection ~~{5}~~ 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.

Sec. 19. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on his property of two or more nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance, the governing body may make the expense a special assessment against the property upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property . {+}

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property . ~~{-}~~

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS . ~~{- or}~~

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor ~~{as defined in NRS 453.086}~~ or controlled substance analog . ~~{as defined in NRS 453.043.}~~

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

(c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

(d) "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~{(e)}~~ ***(e) "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:***

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

↪ a property or a person present on the property.

Sec. 20. Title 51 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 21 to 33, inclusive, of this act.

Sec. 21. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 22 to 30, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 22. *"Advisory Committee" means the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act.*

Sec. 23. *"Anhydrous ammonia" means a liquid or gaseous inorganic compound that is formed by the chemical combination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. The term does not include ammonium hydroxide.*

Sec. 24. *"Board" means the State Board of Agriculture.*

Sec. 25. *"Department" means the State Department of Agriculture.*

Sec. 26. *"Director" means the Director of the Department.*

Sec. 27. *"Distributor" means a person that imports, consigns, sells, offers for sale, barter, exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this State.*

Sec. 28. *"Nontoxic dye" means a biodegradable, clear liquid product that causes staining when exposed to air.*

Sec. 29. *"Other additive" means a product other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders the anhydrous ammonia nonreactive, unusable or undesirable for use in the manufacture of any material, compound, mixture or preparation which contains any quantity of methamphetamine.*

Sec. 30. *"User" means a person that uses anhydrous ammonia in the course of engaging in agricultural activity in this State to promote or stimulate the growth of plants, increase the productiveness of plants, improve the quality of crops or produce any chemical or physical change in the soil.*

Sec. 31. 1. *The Department, in consultation with the Department of Public Safety, shall certify each brand of nontoxic dye or other additive that a distributor of anhydrous ammonia or user may add to anhydrous ammonia.*

2. *The Board, in consultation with the Advisory Committee, shall adopt regulations establishing standards to be used in making certifications pursuant to subsection 1 and for the administration of this chapter.*

Sec. 32. 1. *The Anhydrous Ammonia Additive Advisory Committee is hereby created within the Department.*

2. *The Advisory Committee consists of one representative of each of the following:*

(a) *The Department.*

(b) *The Department of Public Safety.*

(c) *Manufacturers of anhydrous ammonia fertilizers.*

(d) *The Agricultural Extension Department of the Public Service Division of the Nevada System of Higher Education.*

(e) *Retail distributors of anhydrous ammonia.*

(f) *Users who are growers of agricultural products.*

3. *The Director, in consultation with the Director of the Department of Public Safety, shall appoint the members of the Advisory Committee.*

4. *After the initial term, each member of the Advisory Committee shall serve for a term of 4 years.*

5. *Each member of the Advisory Committee serves without compensation. If sufficient money is available to the Department, members are entitled to travel allowances provided for state officers and employees generally while attending meetings of the Advisory Committee.*

6. *Each member of the Advisory Committee who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Committee.*

Sec. 33. *The Advisory Committee:*

1. *May review all relevant scientific and economic data on nontoxic dyes or other additives for anhydrous ammonia that are submitted to the Department for certification.*

2. *Shall require the manufacturer of any nontoxic dye or other additive submitted to the Department for certification to provide sufficient scientifically valid data for each submitted nontoxic dye or other additive to allow the Department to determine the:*

(a) *Impact of the nontoxic dye or other additive on crop yield;*

(b) *Specific food crop residue analysis of the nontoxic dye or other additive; and*

(c) *Impact of the nontoxic dye or other additive on the environment.*

3. *May issue recommendations to the Department regarding whether the Department should certify a nontoxic dye or other additive.*

Sec. 34. (Deleted by amendment.)

Sec. 35. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 42, inclusive, of this act.

Sec. 36. *As used in sections 36 to 42, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 37, 38 and 39 of this act have the meanings ascribed to them in those sections.*

Sec. 37. *"Department" means the Department of Public Safety.*

Sec. 38. *"Permit" means a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act.*

Sec. 39. *"Product that is a precursor to methamphetamine" means a product which contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq., as a nonprescription drug.*

Sec. 40. 1. *A person shall not sell or transfer to an ultimate user in the course of any business, or engage in the business of selling to ultimate users, a product that is a precursor to methamphetamine, unless the person:*

(a) *Is a pharmacy; or*

(b) *Holds a valid permit issued by the Board pursuant to this section.*

2. *A person who violates subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

3. *To obtain or renew a permit, a person must:*

(a) *Submit an application to the Executive Secretary of the Board on a form furnished by the Board;*

(b) *Pay the fee required by NRS 639.170; and*

(c) *Submit any other documentation that the Board may require by regulation.*

4. *The Board shall issue or renew a permit if the person applying for the permit has complied with subsection 2 and the Board determines that the person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine. To determine whether a person will safely and lawfully sell or transfer a product that is a precursor to methamphetamine, the Board shall consider the following factors:*

(a) *Whether the business operated by the person contains a pharmacy which is not open to the public at all times.*

(b) *The proximity of the business operated by the person to a pharmacy that is open to the public at all times.*

(c) *Whether an owner, partner, member, manager, stockholder who owns more than 10 percent of the outstanding stock, director or officer of the person, or an employee of the person who will sell or transfer a product that is a precursor to methamphetamine, has been arrested for, charged with or convicted of:*

(1) *A felony;*

(2) *Any crime involving moral turpitude; or*

(3) *Any crime related to the unlawful possession, sale or use of a controlled substance or dangerous drug.*

(d) *Whether the business operated by the person is the type of business at which a reasonable person purchases a product that is a precursor to methamphetamine.*

(e) *The previous experience of the person with the sale of a product that is a precursor to methamphetamine.*

Sec. 41. ~~*[A pharmacy or a person who holds a permit shall:*~~

~~1. *Comply with the law of this State and federal law concerning the sale or transfer of a product that is a precursor to methamphetamine.*~~

~~2. *Submit to the Department a report of the quantity of each purchase and sale or transfer of a product that is a precursor to methamphetamine not later than:*~~

~~(a) *April 30, for the period from January 1 through March 31;*~~

~~(b) *July 31, for the period from April 1 through June 30;*~~

~~(c) *October 31, for the period from July 1 through September 30; and*~~

~~(d) *January 31, for the period from October 1 of the previous year through December 31 of the previous year.*~~

~~The Department shall adopt regulations governing the form of the report and the manner in which the report is submitted to the Department.]~~
(Deleted by amendment.)

Sec. 41.5. 1. Except as otherwise provided in subsection 2, if a pharmacy or holder of a permit becomes aware of any unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine while the product is under the control of the pharmacy or holder of a permit, the pharmacy or holder of a permit must:

(a) Make an oral report to the Department at the earliest practicable opportunity after the pharmacy or holder of a permit becomes aware of the unusual or excessive loss or disappearance of the product that is a precursor to methamphetamine; and

(b) Submit a written report to the Department within 15 days after the pharmacy or holder of a permit becomes aware of the unusual or excessive loss or disappearance of the product that is a precursor to methamphetamine.

2. If an unusual or excessive loss or disappearance of a product that is a precursor to methamphetamine occurs while the product is being transported to a pharmacy or holder of a permit, the pharmacy or holder of a permit is not required to comply with the provisions of subsection 1.

3. A report required by subsection 1 must include, without limitation, a description of the circumstances surrounding the loss or disappearance and may be in substantially the following form:

LOSS REPORT

License or permit number (if applicable):

Name:

Business address:

City:

State:

Zip:

Business phone:

Date of loss:

Type of loss:

Description of circumstances:

4. As used in this section, “unusual or excessive loss or disappearance” means a loss or disappearance for which a report would be required under 21 U.S.C. 830(b)(1), and any regulations adopted thereunder, if the pharmacy or holder of a permit were subject to the requirements of 21 U.S.C. 830(b)(1) and any regulations adopted thereunder.

Sec. 42. At any time that a pharmacy or a business operated by a holder of a permit is open to the public, an agent of the Board, the Department or a local law enforcement agency may examine, copy, seize or impound any records of the pharmacy or the holder of a permit concerning the purchase, sale or transfer of a product that is a precursor to methamphetamine.

Sec. 43. NRS 639.129 is hereby amended to read as follows:

639.129 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 ***or a permit issued pursuant to sections 36 to 42, inclusive, of this act*** shall include the social security number of the applicant in the application submitted to the Board.

(b) A natural person who applies for the issuance or renewal of a certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 ***or a permit issued pursuant to sections 36 to 42, inclusive, of this act*** shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A certificate of registration as a pharmacist, intern pharmacist, pharmaceutical technician or pharmaceutical technician in training, ~~for~~ a license issued pursuant to NRS 639.233 ***or a permit issued pursuant to sections 36 to 42, inclusive, of this act*** may not be issued or renewed by the Board if the applicant is a natural person who:

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

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

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

Sec. 44. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

	Actual cost of the examination
For the examination of an applicant registration for as a pharmacist	
For the investigation or registration of an applicant as a registered pharmacist	\$200
For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
For the investigation or issuance of an original license to conduct a retail pharmacy	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist	50
For the biennial renewal of registration as a registered pharmacist	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse)	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	\$50
For the investigation or registration of an intern pharmacist	50
For the biennial renewal of registration as an intern pharmacist	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500
For the biennial renewal of a license for a manufacturer or wholesaler	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon	100
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
<i>For the issuance or renewal of a permit to sell or transfer a product that is a precursor to methamphetamine issued by the Board pursuant to sections 36 to 42, inclusive, of this act</i>	<i>200</i>

2. If a person requests a special service from the Board or requests the Board to convene a special meeting, he must pay the actual costs to the

Board as a condition precedent to the rendition of the special service or the convening of the special meeting.

3. All fees are payable in advance and are not refundable.

4. The Board may, by regulation, set the penalty for failure to pay the fee for renewal for any license, permit, authorization or certificate within the statutory period, at an amount not to exceed 100 percent of the fee for renewal for each year of delinquency in addition to the fees for renewal for each year of delinquency.

Sec. 45. NRS 639.210 is hereby amended to read as follows:

639.210 The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;
2. Is guilty of habitual intemperance;
3. Becomes or is intoxicated or under the influence of liquor, any depressant drug or a controlled substance, unless taken pursuant to a lawfully issued prescription, while on duty in any establishment licensed by the Board;
4. Is guilty of unprofessional conduct or conduct contrary to the public interest;
5. Is addicted to the use of any controlled substance;
6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;
7. Has been convicted of:
 - (a) A felony relating to holding a certificate, license, registration or permit pursuant to this chapter;
 - (b) A felony pursuant to NRS 639.550 or 639.555; or
 - (c) Other crime involving moral turpitude, dishonesty or corruption;
8. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;
10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent;
11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;
12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or

failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

13. Has failed to renew his certificate, license or permit by failing to submit the application for renewal or pay the renewal fee therefor;

14. Has had his certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State;

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his supervision;

16. Has repeatedly been negligent, which may be evidenced by claims of malpractice settled against him;

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS; or

18. Has failed to file or maintain a bond or other security if required by NRS 639.515.

19. Has violated any provision of section ~~44~~ 41.5 of this act or any regulations adopted pursuant thereto.

Sec. 46. 1. The State Board of Pharmacy shall, during the 2007-2009 interim, conduct a study to identify computer software that will create an electronic database which:

(a) Identifies each sale or transfer of a product that is a precursor to methamphetamine immediately after the sale or transfer has occurred; and

(b) A pharmacy or person who holds a permit issued by the Board pursuant to sections 36 to 42, inclusive, of this act may access for the purpose of determining whether a sale or transfer of a product that is a precursor to methamphetamine would violate state or federal law.

2. The State Board of Pharmacy shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

Sec. 47. As soon as practicable after October 1, 2007, the Director of the State Department of Agriculture shall appoint to the Anhydrous Ammonia Additive Advisory Committee created by section 32 of this act:

1. Three members whose terms expire on September 30, 2009; and

2. Three members whose terms expire on September 30, 2011.

Sec. 48. 1. This section and section 46 of this act become effective upon passage and approval.

2. Sections 4, 5, 6 and 35 to 45, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the amendatory provisions of sections 4, 5, 6 and 35 to 45, inclusive, of this act; and

(b) On October 1, 2007, for all other purposes.

3. Sections 1, 2, 3, 7 to 34, inclusive, and 47 of this act become effective on October 1, 2007.

4. Section 43 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Assemblywoman Weber moved the adoption of the amendment.

Remarks by Assemblymen Weber, Anderson, and Leslie.

Amendment lost.

Remarks by Assemblymen Anderson, Leslie, Settlemeyer, Horne, Bobzien, and Mabey.

Assemblyman Anderson requested that the following remarks be entered in the Journal.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. Assembly Bill 150 revises provisions pertaining to methamphetamine and other controlled substances, including certain compounds commonly used in its manufacture and other controlled substances, known as precursors. Specifically, this bill limits to pharmacies and any business that is registered with the Nevada State Board of Pharmacy, the entities that may sell drugs that contain precursors to methamphetamine. A business which fails to register with the Nevada State Board of Pharmacy prior to selling such drugs or products containing precursors to methamphetamine is guilty of a Category C felony. The bill provides, secondly, that any pharmacy or business registered with the Nevada State Board of Pharmacy must report to the Nevada Department of Public Safety on a quarterly basis its purchase and sale of drugs that contain precursors to methamphetamine. The measure makes various changes pertaining to crime related to the use or manufacture of methamphetamine or other controlled substances and revises provisions pertaining to nuisance. The measure also requires the Nevada State Board of Pharmacy to research, identify, and recommend electronic monitoring software to the 2009 Legislature and creates the Anhydrous Ammonia Advisory Committee within the Nevada Department of Agriculture.

This particular piece of legislation was one which has been put forth for our communities. Here in this community, in Carson City, the mayor and the sheriff have children who are involved with this drug. Our prison system is filled with people who are addicted to this drug. We have to take a strong stand. This is the right thing to do. I have worn a red band for some time to remind me every day that our children deserve more. We, as a community, must end this dread disease. We must do everything we can to take this commodity off the street. This bill is not going to go near far enough to solve this problem, but we must do something. We must do the right thing. Voting for this bill is the right thing. We are going to make a difference in our state, for our kids and their tomorrow, for the young people who are now addicted to it, who may

now see light at the end of the tunnel. It is not the train coming at them to run them down. Thank you, Madam Speaker.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of A.B. 150. We have heard a lot about methamphetamine this session. We have passed several bills already to make sure the state is in compliance with federal law. What we have not done and what we have the opportunity to do today is really take a stronger stand. We lead the nation in methamphetamine addiction. We lead the nation in youth meth addiction. Yet, we still allow convenience stores to sell precursors.

Methamphetamine is different from other drugs. You have heard that over and over. It is much more highly addictive. It is a synthetic drug. The only way to make methamphetamine is from these precursors. You have to have pseudoephedrine. We need to restrict that so we do not have an explosion of meth labs. It is true that law enforcement has put a lot of pressure on the methamphetamine labs in Nevada, as they have nationwide. They have been greatly reduced in number. Law enforcement has also been putting a lot of pressure on the meth coming into the country from Mexico. That is being reduced greatly. However, because of this, law enforcement officials testified to another surge in methamphetamine lab production in Nevada.

My colleague from Sparks has been very responsive to what the community has asked from us. We started out with a bill which would have matched Oregon, making it a prescription only process to get pseudoephedrine. In trying to balance the needs of the citizens of this state and the retailers, we worked this bill all session to the point where we have a compromise, as my colleague said, as much as we can compromise. There are still objections to parts of the bill that say convenience stores, if they want to sell this product, have to register and have to follow the rules. They also have to report their inventory. There are those who say these regulations are overly burdensome and should not be placed upon these convenience stores. If convenience stores do not want to sell pseudoephedrine, do not sell it. That would be the best result possible, from my point of view. The less we have these products available to the public, the fewer methamphetamine labs we are going to have, the fewer people are going to get addicted, the fewer people are going to be clogging our prison system due to this horrible, horrible drug. There will be some excuses today why people will vote against this bill. Please remember—this is your opportunity to take a stronger stand and to send a message to the children in our state that this Legislature wants to do something significant over and beyond what the federal government has done to stop methamphetamine abuse in Nevada. I urge your support.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. Recently, with my daughter, I tried to get some pseudoephedrine for her at the store. I was surprised by the amount of paperwork we had to go through. You have to show your identification and then they wanted a second form of identification to validate that my primary identification was okay. I found it fairly burdensome as a person trying to acquire a legal product. I think we should try to enforce the laws which we already have. It is also my opinion that the reporting mechanism within the legislation has one individual actually recording their input and their output—both sides of the equation. If you are going to cook methamphetamine, you are going to cook the books, too. If an individual is going to be sitting around, finding drugs any way they can or to cook methamphetamine, they are just going to cook the books for that purpose. Thank you.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. I rise in support of A.B. 150. In my practice, the courts assign me clients on a regular basis. I have to tell you there is rarely a day that one of these clients does not have a methamphetamine problem. This does not translate into these clients of mine being in the courts because they have been caught with meth. These are people who have been caught doing crimes to get money for their meth. These are people who have been neglecting their children because the meth has become more important to them. These are people who have gotten so wrapped in their meth addiction that their physical health is readily apparent. Judge Assad keeps pictures in his court room of “before” and then of “after” on many of these defendants. You would be absolutely startled by the changes this drug does.

Some people have objections because of the fee for a permit for the stores that want to sell precursors. If you put that on a scale, balanced between the damage this drug is doing in our community to the price which is being paid, it is small. The scales tip. We have to take this strong stand here and say we are going to put provisions in place. We are going to put mechanisms in place to make it nearly impossible to make this dangerous, dangerous drug. We owe it to our state. We see the money we are spending on prisons. We see what we are spending on health care. We see what we are spending on other kinds of issues. Much of our money is going out the door, and you can follow the trail to methamphetamine. It is happening. It is alive. We have been talking about this for a long time. In 2003, my first bill was a meth bill. We have to get a handle on this. We have to do it now. I urge your support.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker. I rise in support of A.B. 150. I would challenge everyone in this body to think of the personal stories we have all heard throughout the session about meth. The one which is near and dear to me is about some good friends of mine who have a daughter who is in and out of their lives on a regular basis. They lose track of her for months at a time. She runs away for extended periods. Now and then they reconnect or they receive news about her. I remember some months back they were anxiously awaiting the arrival of her eighteenth birthday. They knew once they had crossed beyond that threshold, getting her back was going to become harder and harder. I wished I could report to you a happy ending to this story. The ending has not yet been determined, however.

As my colleague from Assembly District 27 alluded to, methamphetamine is unique in two regards. Firstly, it is so powerful, addictive, and destructive. Secondly, there is a very easy way to control it relative to other controlled substances we are worried about. It is the control of the precursors. This bill makes an important step forward for this state, being able to monitor and figure out what's going on with these precursor materials. I urge your support.

ASSEMBLYMAN MABEY:

Thank you, Madam Speaker. I rise in opposition to this bill. I appreciate the hard work of those who have supported the bill. I have had personal experiences with my neighbor who is on drugs. One morning I was sitting in my home, reading a book, and I had a knock at the door. A gentleman came to the door. I had never met him before even though he was neighbor. In Las Vegas, we don't always know our neighbors very well. He started crying and I invited him in. He showed me the obituary of his son's friend, who had just died from an overdose. He told me one of his son's other friends had just died a month or so before that. They had asked him to submit to a drug test and he had tested positive. I know how this drug can hurt people.

I've tried to meet with both sides, I've tried to resolve one issue which I feel my colleague from Gardnerville tried to address and did well. I just don't think that provision of the bill will help. For that reason, and that reason alone, I will oppose the bill. I agree with the part which says it should not be in convenience stores or if they want to comply, as this bill states, that would be fine by me. But for the reason mentioned, I will oppose the bill. Thank you.

Roll call on Assembly Bill No. 150:

YEAS—27.

NAYS—Allen, Beers, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settelmeyer, Stewart, Weber—14.

NOT VOTING—Carpenter.

Assembly Bill No. 150 having failed to received a two-thirds majority, Madam Speaker declared it lost.

Assembly Bill No. 182.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 182:

YEAS—41.

NAYS—Beers.

Assembly Bill No. 182 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 203.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 203:

YEAS—42.

NAYS—None.

Assembly Bill No. 203 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 206.

Bill read third time.

Roll call on Assembly Bill No. 206:

YEAS—42.

NAYS—None.

Assembly Bill No. 206 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 246

Bill read third time.

Roll call on Assembly Bill No. 246:

YEAS—41

NAYS—1—Cobb.

Assembly Bill No. 246 having received a constitutional majority, Madam
Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 275.

Bill read third time.

Roll call on Assembly Bill No. 275:

YEAS—42.

NAYS—None.

Assembly Bill No. 275 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 354.

Bill read third time.

Remarks by Assemblymen Parnell and Christensen.

Roll call on Assembly Bill No. 354:

YEAS—38.

NAYS—Allen, Carpenter, Cobb, Goedhart—4.

Assembly Bill No. 354 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 440.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 440:

YEAS—41.

NAYS—None.

NOT VOTING—Arberry.

Assembly Bill No. 440 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:26 p.m.

ASSEMBLY IN SESSION

At 12:27 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted Senate
Concurrent Resolution No. 46.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 46.

Assemblywoman Buckley moved the adoption of the resolution.

Remarks by Assemblymen Buckley, Arberry, Marvel, Christensen,
Segerblom, Horne, and Ohrenschall.

Assemblywoman Buckley requested that the following remarks be entered
in the Journal.

ASSEMBLYWOMAN BUCKLEY:

It is my great honor to rise in support of this resolution. I recall when my colleague from
Assembly District 7 decided to include some planning money for a law school in his budget. I
remember thinking to myself, “I would love to see a law school here, but I am not sure we can
really do it—it is a huge undertaking.”

I was one of the many Nevadans who desperately wanted to stay in Nevada to do my legal education, but there was no law school here. I was all by myself applying for scholarships. The thought of having to quit my job and move to a place where I knew absolutely no one was a scary proposition. I did it, but it would have been much easier had I not had to leave my home and friends to go to a first-rate law school.

I think the effort came about because of that frustration of many—for our children, for our grandchildren, and for our community that was losing those resources. Often when people move away, they fall in love with their new community, and then they do not come back. We felt like we were missing the best and the brightest, and so began that journey.

Many years ago, an exploratory committee was developed followed by a hiring committee when the money was funded. They selected Dean Morgan to be the first dean of the William S. Boyd School of Law. That decision ensured the success of the law school. It was an incredible undertaking to put together policies, procedures, curriculum, and staff; decide the courses; do the advertising; recruit the students; develop the scholarships; and deal with all of the funding issues, but Dick did it. The law school opened within 11 months of its founding. The average is two years, but he did it and did it well.

I recall meeting Dick when he was on the job a couple of weeks. I heard that we had hired the new dean, so I went to meet him. He was in a temporary office in the Bigelow Health Sciences Building, and I had trouble finding him because there was no office for him to go to when he arrived. I was making the pitch that we are going to have all these new law students, and I wondered if we could get some of them to do community legal service. I saw the unmet legal needs of people every day. How can people deal with domestic violence or being defrauded when they cannot afford an attorney? I had heard of some of these endeavors at other law schools and asked the dean, “Can we put together something where law students could work in our legal aid office to help the poor?” The dean said, “One of the hallmarks of this school is going to be community service. We could require every law student to do community legal service to help the disadvantaged as a requirement of graduation.” After I lifted my jaw off the ground, I said “That would be so incredible.”

Over the past ten years, over 18,000 people have received free legal service as a result of the partnership between the law school and the legal aid services in Clark County.

That is just the beginning of it—from developing clinics to assisting the legal community to actually having law students learn by doing by going to court under the supervision of a faculty member. Whether it was creating scholarships and seats to attract the very best, attracting and retaining some incredibly gifted faculty members so that the students have the opportunity to learn from the best in so many subject areas, or moving to a law school campus that anyone can be proud of from the humble beginnings at the Paradise Elementary School campus where the setting was rather pint-sized for the faculty and students, the dean made it all happen.

The other remarkable part was the journey to accreditation. I do not think any other law school has ever been accredited so quickly, and it is because of the attention to detail that the dean paid. On every milestone, the dean and faculty worked with the accrediting committee. They worked hard making sure everything got done, and the committee was so impressed. I had the privilege of flying to the accreditation review committee meeting in Texas with Judge Proe, Dean Morgan, Jim Rogers, and Bill Boyd where I testified in support of the law school—mentioning some of the many accomplishments that they had made. I have never heard so many complimentary remarks, and again, it is because of the attention to detail that Dean Morgan paid in paving the way to make sure that accreditation happened.

He is a remarkable man, and it is a remarkable law school—an institution we can all be proud of, and it is because of his hard work and vision in making it happen.

I think the other key to the success of the dean is his great manner of communication. Every person’s problem becomes his problem. He does it with a sense of humility and a sense of purpose because it is all about the state. It is all about providing a quality of education and moving our state forward in excellence. It is my honor to sponsor this resolution, along with the Senate Majority Leader, and to congratulate Dean Morgan on his retirement and his accomplishments with a great Nevada institution which we can all be proud of.

ASSEMBLYMAN ARBERRY:

It is an honor for me to stand up and say a few words about the dean. I rise in support of Senate Concurrent Resolution 46. When this issue came about—when this body voted to create the law school—I heard from President Harter who was back in New York. She received a call that we had created a law school and a study, and it was going to be her first time coming to Las Vegas to head the university.

Our biggest concern was finding someone who could lead this law school and have the tenacity to take this law school to the height that it could possibly go. It was critical because we had so much opposition along the way in trying to create the law school. Some people did not want the law school here, but as the Speaker mentioned, we really needed it.

Some people thought that I wanted to go to law school because I was so supportive of this, but no, it was because of the reasons that the Speaker just mentioned. It was for you, your kids, and your grandkids that decide that they want to go to law school but do not have the means to leave their home and family.

There was also a generation in their 30s or 40s that wanted to go back to school and practice law but could not leave because they had a family and a home, here, to take care of. That was the motive behind this—plus the Senator that passed away.

When the dean was selected by the regents and the president and I had an opportunity to meet him at a football game, he asked me where I envisioned this law school. After the first words came out of his mouth, I knew this law school was going to be fantastic—that they had selected the right person to take this law school to a high level.

I told the dean, “All I want this school to do is take off like a flying jet plane leaving the ground, and I know you can do it. It has to get to an altitude where people will recognize this law school throughout the country.” I can say that the dean did that.

I hate to see you leave because you have done such a fantastic job, but I know you have a life for yourself. We are so honored that you chose to come to Las Vegas—to Nevada—to be the dean of this law school. Most of the people you see in this body are homegrown or third-generation. You were a first-generation coming to Nevada, but the way you worked and maneuvered through the community—from north to south and all over Nevada, looking out for everyone—I could see it was in your heart.

I am honored to have met you, to be your friend, and to constantly discuss with you about what the law school needs. I will always try to be there for you—I do not know about the new person—but I promise I will do what I can. Dean, enjoy yourself, congratulations, and we will really miss you.

ASSEMBLYMAN MARVEL:

I, too, rise in support of Senate Concurrent Resolution 46. For a while, we wore T-shirts around here that said “Moose U.” Nevada has been fortunate in having you and the tremendous job you have done to create an image for the state of Nevada as having one of the top-rate law schools in the United States, if not the world. We owe you a debt of gratitude. I hate to see you retire, and I hope that your successor will be as successful as you. I wish you good luck in your future ventures, and it has been a pleasure knowing you.

ASSEMBLYMAN CHRISTENSEN:

I, too, rise in staunch support of Senate Concurrent Resolution 46. It was January of 2003, Mr. Morgan, when you and I first met. I had heard so many great things. I was a newly elected Assemblyman, and I had heard so much about the law school. I had a meeting down at UNLV, and I thought I should go meet this sensational man that I kept hearing so much about. I was more than impressed, and I am sad to see you go. I actually forgot that your first name was Richard because I kept hearing “Dean Morgan” so much until about eight months ago when I saw your name written, but you will always be Dean Morgan to all of us I am sure.

The reason why I stand to support this measure is because, as we hear all the accolades that are associated with Dean Morgan coming to launch this program, we have a great model here in front of us as to the kind of talent that the city of Las Vegas, university system, government programs, and state of Nevada are able to attract. We see that in Dean Morgan and for that, I say thank you.

ASSEMBLYMAN SEGERBLOM:

Dean Morgan, I want to thank you personally. My daughter just graduated from the law school and instead of having a debt of \$150,000, which I would probably have to pay, she graduated debt-free. I am particularly proud of that and proud of what you have done. Thank you very much.

ASSEMBLYMAN HORNE:

I rise in support of Senate Concurrent Resolution 46. Dean Morgan, I want to say that I really appreciate your leadership at the law school.

As everyone here knows, I am an alumnus. I graduated in December of 2001. When I decided to leave my previous career and go to law school, it had not opened yet. I put out my applications and did some homework, and Dean Morgan's reputation preceded him.

I have family back in Buffalo and received an offer to go to the State University of New York at Buffalo—my cousin graduated from there. She pleaded with me not to attend the William S. Boyd School of Law because it was not accredited and she did not want me to cubbyhole myself. I told her, "You know what, I think I am going to be okay," and it turned out to be okay.

You just do not know how good the faculty is. The Speaker said that he attracted good faculty—he stole them—and I am glad that he did. We have people like Carl Tobias, arguably one of the most published tort professors in the country; Ruth Marquell, who sits on the U.S. bench for bankruptcy; and people who are serving on the bench in Clark County. We have the Majority Leader in the Assembly as a graduate. To my right, we have a current student as well. We have members in the Legislative Counsel Bureau and alum that are with the Secretary of State's office, lobbyists, district attorneys, attorneys general, public defenders, and the list goes on and on.

This school is making such an impact on our state, and it is due to the leadership of Dean Morgan and the staff that he brought. His focus and the vision that he had for our school were so different. Students like myself that are not necessarily the sharpest knife in the drawer are able to be successful at this school because the professors are so accessible. I had a meltdown on a mini exam during my first semester. In any other law school they would have just let me melt away, but Professor McGinley did not. She told me to shake it off, get back into it, and she showed me how to take a law school exam. This is what Dean Morgan has done. I appreciate it and the school will miss you, but you have set such a high standard that I think it will be fine. Thank you.

ASSEMBLYMAN OHRENSCHALL:

Thank you very much, Mr. Speaker pro Tempore. I rise in support of S.C.R. 46. Dean Morgan, it is kind of an emotional moment for me. At my desk, I have two lawyers and two law students, including myself. The two lawyers had to go to law school back east. The two law students are currently at your law school down in Las Vegas. I think it is symbolic of the future of Nevada law and what a stamp you are setting on it.

I grew up in Las Vegas and went to many bar functions. There was always talk through the 1970s and 1980s that we needed a law school in Las Vegas, that we had to get a law school in Nevada. It was a shame so many students had to go out of state. When I was younger, I thought they were probably going to build a law school. When the 1980s rolled along, we would keep hearing how we were going to get a law school and how we needed one here.

About the end of the 1980s, I had pretty much decided they were going to talk about doing it but never do it. There was a lot of institutional inertia that you really overcame. You had to fight and get the law school going. I'll never forget when Supreme Court Justice Kennedy was there at the dedication of the new building on the campus. He even taught some classes. That is pretty amazing. I don't know of too many law schools which have a sitting Supreme Court Justice teach constitutional law classes.

I remember one day having a meeting with Professor Aldana and her phone rang. She answered it and told me later that the dean needed help with something. He's looking to help someone in the community. At first I wondered, "Dean who?" Who was she referring to? I realized then at the Boyd Law School they were referring to you when they said "Dean needs this" or "Dean is interested in helping someone." You are the only person they refer to just as

“Dean.” I think most of the law students also refer to you as friend. We’ll miss you and we wish you well. Thank you very much.

Resolution adopted.

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

Assembly in recess at 12:51 p.m.

ASSEMBLY IN SESSION

At 12:55 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Ocegüera moved that the Assembly recess until 4:30 p.m.

Motion carried.

Assembly in recess at 12:56 p.m.

ASSEMBLY IN SESSION

At 4:44 p.m.

Madam Speaker presiding.

Quorum present.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 22, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 1, 7, 49, 76, 94, 103, 122, 138, 190, 258, 289, 297, 298, 301, 311, 313, 323, 344, 350, 365, 415.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 14, Senate Amendment No. 663, and requests a conference, and appointed Senators McGinness, Care, and Amodei as a first Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 710 to Senate Bill No. 86; Assembly Amendment No. 668 to Senate Bill No. 118; Assembly Amendment No. 651 to Senate Bill No. 265; Assembly Amendment No. 686 to Senate Bill No. 282; Assembly Amendment No. 667 to Senate Concurrent Resolution No. 18.

SHERRY L. RODRIGUEZ

Assistant Secretary of the Senate

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which were referred Senate Bills Nos. 78, 425, 548, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 354, 436, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 78.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 768.

AN ACT relating to petitions; revising the provisions relating to misconduct in the signing or filing of petitions; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person is guilty of a misdemeanor if the person: (1) signs the name of another person or of a fictitious person on a petition; (2) files a petition or causes a petition to be filed knowing that the petition contains a false or wrongful signature or statement; (3) signs his name to or withdraws his name from a petition for any consideration, gratuity or reward; or (4) subscribes to any false statement concerning his age, citizenship, residence or other qualification. (NRS 205.125) This bill increases the penalty, from a misdemeanor to a category D felony, if a person: (1) signs the name of another person or of a fictitious person on a petition; or (2) files a petition or causes a petition to be filed knowing that the petition contains a false or wrongful signature or statement. This bill also prohibits a person from ~~[(1)]~~ adding to, revising or altering a petition with the intent to falsify the name or any information concerning the age, citizenship ~~[(1)]~~ or residence ~~[or other qualifications]~~ of another person who signs the petition . ~~[(1)]~~ or ~~[(2)]~~ offering or providing any consideration, gratuity or reward to another person with the intent to induce the other person to sign his own name to or withdraw his own name from a petition. A person who commits one of these new crimes is guilty of a category D felony.

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

Section 1. NRS 205.125 is hereby amended to read as follows:

205.125 ~~{Every person who shall willfully sign the name of another person or of a fictitious person to or for any consideration, gratuity or reward shall sign his own name to or withdraw his name from any}~~

1. A person shall not willfully sign the name of another person, whether living or deceased, or of a fictitious person to any petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each false or wrongful signature on a petition in violation of this subsection, whether

related to a single petition or multiple petitions, constitutes a separate offense.

2. A person shall not willfully add to, revise or alter any petition with the intent to falsify the name or any information concerning the age, citizenship ~~or~~ residence ~~for other qualifications~~ of another person who signs the petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each addition, revision or alteration to a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

3. A person shall not willfully offer or provide any consideration, gratuity or reward to another person with the intent to induce the other person to sign his own name to or withdraw his own name from any petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each offer or provision of consideration, gratuity or reward to another person in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

4. A person shall not, knowing that any petition contains any false or wrongful signature, statement or information, file the petition or cause the petition to be filed. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130. Each filing of a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

~~5. A person shall not, for any consideration, gratuity or reward, sign his own name to or withdraw his own name from any petition. A person who violates the provisions of this subsection is guilty of a misdemeanor. Each signature on or withdrawal from a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.~~

~~6.~~ A person shall not, in signing his own name to any petition, willfully subscribe to any false statement concerning his age, citizenship, residence or other qualifications to sign the petition. A person who violates the provisions of this subsection is guilty of a misdemeanor. Each subscription to a false statement in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense.

~~7.~~ 6. As used in this section, "petition" means a referendum or other petition circulated in pursuance of any law of this State or any municipal ordinance. ~~or in signing his name to such petition shall willfully subscribe to any false statement concerning his age, citizenship, residence or other qualifications to sign the same; or knowing that any such petition contains any such false or wrongful signature or statement shall file the same, or put the same off with intent that it should be filed, as a true and genuine petition, shall be guilty of a misdemeanor.~~

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 354.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 930.

AN ACT relating to the safety of children; increasing the penalty for the unlawful possession of a firearm while on school property; **prohibiting the possession of certain firearms on the property of or in a vehicle of child care facilities**; revising the definition of “firearm”; requiring children who are taken into custody for possession of a firearm while on school property to submit to an evaluation by a qualified professional and a drug test; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; ~~authorizing~~ **revising the jurisdiction of** school police officers ~~to issue traffic citations~~ under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill revises the definition of “firearm” and increases the penalty for the unlawful possession of a firearm while on school property from a gross misdemeanor to a category E felony. (NRS 202.265) **Section 1 further makes the provisions prohibiting a person from carrying or possessing certain firearms while on school grounds or in a vehicle of a school applicable to child care facilities. However, if the child care facility is located at or in the home of a natural person, those provisions do not apply to the owner or operator of the facility who resides in the home if he complies with all laws concerning possession of the weapon. In addition, the prohibition only applies with respect to such a facility during the normal hours of business.** Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) Section 3 of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property **or at a child care facility** to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4-6 of this bill prohibit such sex offenders from establishing residences in a facility that houses more than three persons who have been released from prison unless the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer ~~{ }~~ **and establishes the jurisdiction of such officers.** (NRS ~~{289-190}~~ **391.275**) Section ~~{8}~~ **8.5** of this bill ~~{defines the scope of authority of school police officers, including the authority to issue traffic citations on any public street lying near any public school.}~~ **expands the jurisdiction of school police officers in certain circumstances.**

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess ~~{ }~~ while on the property of the Nevada System of Higher Education ~~{, for}~~ a private or public school or child care facility, or while in a vehicle of a private or public school ~~{ }~~ or child care facility:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles; or
- (e) ~~{A pistol, revolver or other firearm.}~~ Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. *Except as otherwise provided in this section, a person who carries or possesses a pistol, revolver or other firearm while on the property of the Nevada System of Higher Education ~~{, for}~~ a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility, is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

4. This section does not prohibit the possession of a weapon listed in subsection 1 or described in subsection 3 on the property of ~~{ }~~:

- (a) A private or public school or child care facility by a:
- ~~{(a)}~~ (1) Peace officer;
 - ~~{(b)}~~ (2) School security guard; or
 - ~~{(c)}~~ (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

(b) A child care facility which is located at or in the home of a natural person by the person who owns or operates the facility so long as the person resides in the home and the person complies with any laws governing the possession of such a weapon.

5. The provisions of this section apply to a child care facility located at or in the home of a natural person only during the normal hours of business of the facility.

~~{4.}~~ ~~{5.}~~ 6. For the purposes of this section:

(a) "Firearm" includes ~~the~~

~~(1) Any device used to mark the clothing of a person with paint or any other substance; and~~

~~(2) Any~~ **any** device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

(b) "Nunchaku" has the meaning ascribed to it in NRS 202.350.

(c) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.

(d) "Trefoil" has the meaning ascribed to it in NRS 202.350.

(e) "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school **or a child care facility** or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to **subparagraph (3) of** paragraph ~~the~~ **(a)** of subsection ~~3~~ **4** of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, "public

building” means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➔ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall , *if the child was taken into custody for:*

(a) Carrying or possessing a firearm while on the property of the Nevada System of Higher Education, ~~for~~ a private or public school or child care facility, or while in a vehicle of a private or public school ~~for~~ or child care facility, order the child to:

(1) Be evaluated by a qualified professional; and

(2) Submit to a test to determine whether the child is using any controlled substance.

(b) Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~for~~ *or to submit to a test to determine whether the child is using any controlled substance*, the evaluation *or the results from the test* must be completed not later than 14 days after the detention hearing. Until the evaluation *or the test* is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent

of the statements made by the child to the qualified professional during the evaluation.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~{+}~~

(b) Reside at a location only if ~~{+}~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant . ~~{and keep}~~

(2) *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

(3) *The defendant keeps* the parole and probation officer informed of his current address . ~~{+}~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~{+}~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant . ~~{+}~~

(e) Participate in and complete a program of professional counseling approved by the Division . ~~{+}~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance . ~~{+}~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant . ~~{+}~~

(h) Abstain from consuming, possessing or having under his control any alcohol . ~~{+}~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2 . ~~{+}~~

(j) Not use aliases or fictitious names . ~~{+}~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant . ~~{ }~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact . ~~{ }~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend . ~~{ }~~

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~{ }~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~{ }~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~{ }~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant . ~~{ and }~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, “sexual offense” has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:*

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. *The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4.}~~ 6. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of

lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5-}~~ 7. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

(b) "Minor violation" means a violation that does not constitute a major violation.

Sec. 6. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~{it}~~:

(1) ***The residence*** has been approved by the parole and probation officer assigned to the parolee. ~~{and keep}~~

(2) ***If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.***

(3) ***The parolee keeps*** the parole and probation officer informed of his current address. ~~{it}~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~{it}~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee. ~~{it}~~

(d) Participate in and complete a program of professional counseling approved by the Division. ~~{it}~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance. ~~{it}~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee. ~~{it}~~

(g) Abstain from consuming, possessing or having under his control any alcohol. ~~{+}~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2. ~~{+}~~

(i) Not use aliases or fictitious names. ~~{+}~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee. ~~{+}~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact. ~~{+}~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend. ~~{+}~~

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. ~~{+}~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~{+}~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~{+}~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee. ~~{+ and}~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or

communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 7. (Deleted by amendment.)

Sec. 8. ~~NRS 289.190 is hereby amended to read as follows:~~

~~289.190 1. A person employed or appointed to serve as a school police officer pursuant to subsection 8 of NRS 391.100 has the powers of a peace officer. A school police officer shall perform his duties in compliance with the provisions of NRS 171.1223 [.] and, except as otherwise provided in subsection 2, may exercise his power and authority only:~~

- ~~(a) Upon the property of the school district;~~
- ~~(b) When in hot pursuit of a violator leaving such property;~~
- ~~(c) In or about other grounds or properties of the school district; and~~
- ~~(d) At activities or events sponsored by the school district that are in a location other than the property of the school district.~~

~~2. A school police officer may, in the manner provided in NRS 484.790, prepare and issue a traffic citation for a violation of chapter 484 of NRS on any public street that is adjacent to any public school in the school district.~~

~~3. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intent and purposes of NRS 393.071 to 393.0719, inclusive.~~

~~[3.] 4. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.]~~

(Deleted by amendment.)

Sec. 8.5. NRS 391.275 is hereby amended to read as follows:

391.275 1. The jurisdiction of each school police officer of a school district extends to all school property, buildings and facilities within the school district ~~[.]~~ for the purpose of:

~~11~~ (a) Protecting school district personnel, pupils, or real or personal property; or

~~12~~ (b) Cooperating with local law enforcement agencies in matters relating to personnel, pupils or real or personal property of the school district.

2. In addition to the jurisdiction set forth in subsection 1, a school police officer of a school district has jurisdiction:

(a) Beyond the school property, buildings and facilities when in hot pursuit of a person believed to have committed a crime;

(b) At activities or events sponsored by the school district that are in a location other than the property, buildings or facilities within the school district; and

(c) When authorized by the superintendent of schools of the school district, on the streets that are adjacent to the school property, buildings and facilities within the school district for the purpose of issuing traffic citations for violations of traffic laws and ordinances during the times that the school is in session or school-related activities are in progress.

Sec. 9. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↪ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➡ ***The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.***

11. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

Sec. 10. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;

2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.

Assemblyman Horne moved the adoption of the amendment.

Remarks by Assemblymen Settelmeier and Horne.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that upon return from the printer, Senate Bill No. 354 be placed on the Chief Clerk’s desk.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 436 be taken from the Second Reading File and placed on the Chief Clerk’s desk.

Remarks by Assemblyman Anderson.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 425.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 863.

AN ACT relating to campaign practices; **requiring a person administering a legal defense fund to report the creation of, contributions received by and expenditures from the fund; prohibiting contributions over a certain amount to a legal defense fund;** providing that a “political purpose” includes a legal defense fund ~~for~~ **for purposes of the provisions prohibiting the solicitation or acceptance of monetary contributions by certain persons during a specified period; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1.7 of this bill requires a person administering a legal defense fund, which is defined in section 1.5 of this bill, to report the creation of the fund and any contributions received by and expenditures made from the fund. Section 1.8 of this bill limits contributions to a legal defense fund by a person to \$10,000 during a specified period.

Existing law prohibits a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect from soliciting or accepting monetary contributions for any political purpose during a certain period before and after a legislative session. **(NRS 294A.300)** Section 2 of this bill provides that a “political purpose” includes a legal defense fund ~~and defines the term “legal defense fund.”~~

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

Section 1. (Deleted by amendment.)

Sec. 1.1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters’ Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~for~~ **and all reports on contributions**

received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to section 1.7 of this act.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 1.3. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 1.7 and 1.8 of this act.

Sec. 1.5. "Legal defense fund" means an account established to defray attorney's fees or other legal costs incurred by a candidate or public officer if such a candidate or public officer becomes subject to any civil, criminal or administrative claim or proceeding arising from a campaign, the electoral process or the performance of his official duties.

Sec. 1.7. 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 1.8. 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds \$10,000 during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 1.9. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.004 to 294A.009, inclusive, and section 1.5 of this act have the meanings ascribed to them in those sections.

Sec. 2. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

3. *As used in this section* ~~the~~

~~(a) "Legal defense fund" means an account established to defray attorney's fees or other legal costs incurred by a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect if such an official becomes subject to any civil, criminal or administrative proceedings arising from a campaign, the electoral process or the performance of his official duties.~~

~~(b) "Political" , "political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.~~

Sec. 2.3. NRS 294A.350 is hereby amended to read as follows:

294A.350 1. Every candidate for state, district, county, municipal or township office shall file the reports of campaign contributions and expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 ~~the~~ and reports of contributions received by and expenditures made from a legal defense fund required by section 1.7 of this act, even though he:

(a) Withdraws his candidacy;

(b) Receives no campaign contributions;

(c) Has no campaign expenses;

(d) Is removed from the ballot by court order; or

(e) Is the subject of a petition to recall and the special election is not held.

2. A candidate who withdraws his candidacy pursuant to NRS 293.202 may file simultaneously all the reports of campaign contributions and

expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 ~~and the report of contributions received by and expenditures made from a legal defense fund required by section 1.7 of this act,~~ so long as each report is filed on or before the last day for filing the respective report pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 2.5. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to section 1.7 of this act.~~

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 2.7. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; ~~or~~

4. The reporting of the creation of a legal defense fund pursuant to section 1.7 of this act; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 ~~and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to section 1.7 of this act.~~

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of sections 1.7 and 1.8 of this act relating to

the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in section 1.8 of this act and NRS 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

~~Sec. 3.—(Deleted by amendment.)~~

Sec. 3.3. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, ~~and~~ section 1.7 of this act, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.
(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

6. The total contributions received by and expenditures made from a legal defense fund.

Sec. 3.6. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 or section 1.7 of this act has not filed a report or

form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 or section 1.7 of this act is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

- (a) If the report is not more than 7 days late, \$25 for each day the report is late.
- (b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.
- (c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

- (a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and
- (b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 3.8. NRS 281.501 is hereby amended to read as follows:

281.501 1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His pecuniary interest; or
- (c) His commitment in a private capacity to the interests of others.

➡ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His direct pecuniary interest; or
- (c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.

➡ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

- (a) Regarding which he has accepted a gift or loan;
- (b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or
- (c) In which he has a pecuniary interest,

↪ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to section 1.7 of this act in a timely manner.

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. After a member of the Legislature makes a disclosure pursuant to subsection 4, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.

7. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of the Legislative Branch from requesting or introducing a legislative measure; or

(b) Require a member of the Legislative Branch to take any particular action before or while requesting or introducing a legislative measure.

8. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:

(a) Who is a member of his household;

(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(c) Who employs him or a member of his household;

(d) With whom he has a substantial and continuing business relationship;

or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

Sec. 4. This act becomes effective upon passage and approval.
Assemblywoman Koivisto moved the adoption of the amendment.
Amendment adopted.
Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 548.
Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 864.

AN ACT relating to public office; revising the provisions governing filing of statements of financial disclosure by public officers and candidates for public office; requiring certain statements advocating the election or defeat of a candidate for state or local office and published by persons receiving compensation from the candidates, opponents of the candidates or certain political groups to contain disclosures of certain information regarding that compensation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain appointed and elected public officers and candidates for public office to file financial disclosure statements. (NRS 281.559, 281.561) Sections 1 and 2 of this bill clarify that each disclosure statement is intended to disclose the required information for the full calendar year immediately preceding the deadline for filing the statement and, for candidates, to also disclose the required information for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

Existing law provides for a number of required and prohibited acts relating to election campaigns. (NRS 294A.290-294A.343) Section 3 of this bill requires certain statements advocating the election or defeat of a candidate for state or local office and published by persons receiving compensation from the candidates, opponents of the candidates or certain political groups to include a disclosure of certain information regarding that compensation.

Existing law requires a person who publishes any material or information relating to an election, candidate or ballot question to disclose on the publication itself the name and address of each person responsible for paying for the publication. (NRS 294A.320) The United States Court of Appeals for the Ninth Circuit held that although the State had compelling interests in providing useful information to the electorate, in preventing election fraud and in ensuring compliance with its campaign finance laws, NRS 294A.320 was unconstitutional because it prohibited far more anonymous political speech than was necessary to achieve the State's legitimate interests and because its provisions were overbroad and could be further limited in order to withstand strict scrutiny. (*ACLU v. Heller*, 378 F.3d 979 (9th Cir. Nev. 2004))

Section 5 of this bill repeals NRS 294A.320.

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

Section 1. NRS 281.559 is hereby amended to read as follows:

281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

↪ *The statement must disclose the required information for the full calendar year immediately preceding the date of filing.*

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

4. The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who

files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 2. NRS 281.561 is hereby amended to read as follows:

281.561 1. ~~Each~~ ***Except as otherwise provided in subsection 2, each*** candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection ~~{2,}~~ 3, each public officer who was elected to the office for which he is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. ~~[-and] The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.~~

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. ***The statement must disclose the required information for the full calendar year immediately preceding the date of filing.***

2. ***Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281.559, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.***

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

~~{3-}~~ 4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

~~{4-}~~ 5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

- (a) On the date that it was mailed if it was sent by certified mail; or
- (b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

~~{5-}~~ 6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281.471.

~~{6-}~~ 7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 3. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate, or a person, party or committee required to report expenditures pursuant to NRS 294A.210,

↪ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person, party or committee providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

↪ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating;
or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 4. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310 ~~1, 294A.320~~ or 294A.360 is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

➡ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 5. NRS 294A.320 is hereby repealed.

TEXT OF REPEALED SECTION

NRS 294A.320 Published material concerning campaign must identify person paying for publication; exceptions.

1. Except as otherwise provided in subsection 2, it is unlawful for any person to publish any material or information relating to an election, candidate or any question on a ballot unless that material or information contains:

(a) The name and mailing or street address of each person who has paid for or who is responsible for paying for the publication; and

(b) A statement that each such person has paid for or is responsible for paying for the publication.

2. The provisions of subsection 1 do not apply:

(a) To any candidate or to the political party of that candidate which pays for or is responsible for paying for any billboard, sign or other form of advertisement which refers only to that candidate and in which the candidate's name is prominently displayed.

(b) If the material is expressly approved and paid for by the candidate and the cost of preparation and publishing has been reported by the candidate as a campaign contribution pursuant to NRS 294A.120.

(c) To a natural person who acts independently and not in cooperation with or pursuant to any direction from a business or social organization, nongovernmental legal entity or governmental entity.

3. Any identification that complies with the requirements of the Communications Act of 1934 and the regulations adopted pursuant to the act shall be deemed to comply with the requirements of this section.

4. As used in this section:

(a) "Material" means any printed or written matter or any photograph.

(b) "Publish" means the act of:

(1) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(2) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated,

↪ any material or information to the public.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that Senate Bill No. 18 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

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

Assembly in recess at 4:53 p.m.

ASSEMBLY IN SESSION

At 4:58 p.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Oceguera moved that the action whereby Senate Bill No. 354 was to be placed on the Chief Clerk's desk upon return from the printer be rescinded.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 508.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 508:

YEAS—42.

NAYS—None.

Assembly Bill No. 508 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 579.

Bill read third time.

Remarks by Assemblyman Parks.

Roll call on Assembly Bill No. 579:

YEAS—42.

NAYS—None.

Assembly Bill No. 579 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 612.

Bill read third time.

Remarks by Assemblywoman McClain.

Roll call on Assembly Bill No. 612:

YEAS—42.

NAYS—None.

Assembly Bill No. 612 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 615.

Bill read third time.

Remarks by Assemblywoman Smith.

Roll call on Assembly Bill No. 615:

YEAS—42.

NAYS—None.

Assembly Bill No. 615 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 616.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Assembly Bill No. 616:

YEAS—42.

NAYS—None.

Assembly Bill No. 616 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 618.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 618:

YEAS—42.

NAYS—None.

Assembly Bill No. 618 having received a constitutional majority,
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 10.

Bill read third time.

Remarks by Assemblymen Mabey and Anderson.

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

Roll call on Senate Bill No. 10:

YEAS—42.

NAYS—None.

Senate Bill No. 10 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 16.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Senate Bill No. 16:

YEAS—42.

NAYS—None.

Senate Bill No. 16 having received a constitutional majority,
Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 58 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 66.

Bill read third time.

Remarks by Assemblymen Anderson and Cobb.

Roll call on Senate Bill No. 66:

YEAS—29.

NAYS—Allen, Beers, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Hardy, Mabey, Marvel, Settlemeyer, Stewart—13.

Senate Bill No. 66 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 74.

Bill read third time.

Remarks by Assemblyman Marvel.

Roll call on Senate Bill No. 74:

YEAS—42.

NAYS—None.

Senate Bill No. 74 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 99.

Bill read third time.

Remarks by Assemblywoman Gansert.

Roll call on Senate Bill No. 99:

YEAS—42.

NAYS—None.

Senate Bill No. 99 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 110.

Bill read third time.

Remarks by Assemblyman Denis.

Roll call on Senate Bill No. 110:

YEAS—42.

NAYS—None.

Senate Bill No. 110 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 112.

Bill read third time.

Remarks by Assemblymen Leslie and Beers.

Roll call on Senate Bill No. 112:

YEAS—42.

NAYS—None.

Senate Bill No. 112 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 142.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 142:

YEAS—42.

NAYS—None.

Senate Bill No. 142 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 143.

Bill read third time.

The following amendment was proposed by Assemblywoman Smith:

Amendment No. 933.

AN ACT relating to education; **establishing an Advisory Council on Parental Involvement**; authorizing teachers in elementary schools to provide reports to parents and legal guardians of pupils under certain circumstances; requiring support teams established for certain schools to review certain information; ~~establishing an interim Advisory Council on Parental Involvement~~; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-4 of this bill establish an Advisory Council on Parental Involvement and prescribe the membership and duties of the Advisory Council.

The statewide system of accountability for public schools requires that public schools be designated each year based upon adequate yearly progress. (NRS 385.3623) A support team must be established for each public school that is designated as demonstrating need for improvement for 3 consecutive years or more. (NRS 385.3721) Each support team is required to review certain information pertaining to the school and revise the school's plan to improve accordingly. (NRS 385.3741) Section ~~44~~ 5 of this bill requires the support team to review information provided to the support team concerning educational involvement accords and reports provided to parents and legal guardians by elementary school teachers.

Section ~~44~~ 6 of this bill authorizes a teacher in an elementary school to provide to each parent and legal guardian of a pupil enrolled in the school, on

a form prescribed by the Department of Education, a report containing certain information about the pupil and the involvement of the parent or legal guardian in the education of his child. Aggregate information concerning any completed reports must be provided to the support team established for the school, if a support team has been established.

Under existing law, each public school is required to provide to each parent or legal guardian of a pupil an educational involvement accord. The accord provides information concerning the responsibilities of the parent or legal guardian, the pupil and the school in the education of the pupil. (NRS 392.4575) Section ~~[3]~~ 7 of this bill requires principals of schools designated as demonstrating need for improvement for 3 consecutive years or more to provide aggregate information concerning the accords to the support team established for the school.

Under existing law, each classroom teacher is required to provide the code of honor relating to cheating to the parent or legal guardian of each pupil enrolled in his class as part of the educational involvement accord. (NRS 392.4575) Section ~~[4]~~ 8 of this bill requires provision of the code of honor relating to cheating to the pupil as well as his parent or legal guardian for their signature on that document. (NRS 392.461)

~~f Sections 5 and 6 of this bill establish an interim Advisory Council on Parental Involvement to study issues relating to parental involvement in education.]~~

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. As used in sections 2, 3 and 4 of this act, "Advisory Council" means the Advisory Council on Parental Involvement established pursuant to section 3 of this act.

Sec. 3. 1. The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement. The Advisory Council is composed of 10 members.

2. The Superintendent of Public Instruction shall appoint the following members to the Advisory Council:

- (a) Two parents or legal guardians of pupils enrolled in public schools;
- (b) Two teachers in public schools;
- (c) One administrator of a public school;
- (d) One representative of a private business or industry;
- (e) One member of the board of trustees of a school district in a county whose population is 100,000 or more; and
- (f) One member of the board of trustees of a school district in a county whose population is less than 100,000.

↪ The Superintendent of Public Instruction shall, to the extent practicable, ensure that the members he appoints to the Advisory Council reflect the ethnic, economic and geographic diversity of this State.

3. The Speaker of the Assembly shall appoint one member of the Assembly to the Advisory Council.

4. The Majority Leader of the Senate shall appoint one member of the Senate to the Advisory Council.

5. The Advisory Council shall elect a Chairman and Vice Chairman from among its members. The Chairman and Vice Chairman serve a term of 1 year.

6. After the initial terms:

(a) The term of each member of the Advisory Council who is appointed by the Superintendent of Public Instruction is 3 years.

(b) The term of each member of the Advisory Council who is appointed by the Speaker of the Assembly and the Majority Leader of the Senate is 2 years.

7. The Department shall provide:

(a) Administrative support to the Advisory Council; and

(b) All information that is necessary for the Advisory Council to carry out its duties.

8. For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council, except during a regular or special session of the Legislature, he is entitled to receive the:

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

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

(c) Travel expenses provided pursuant to NRS 218.2207.

↪ The compensation, per diem allowances and travel expenses of the legislative members of the Advisory Council must be paid from the Legislative Fund.

9. A member of the Advisory Council who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which he attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council. The per diem allowance and travel expenses for the members of the Advisory Council who are not Legislators must be paid by the Department.

Sec. 4. The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of

accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

~~{Section 4}~~ Sec. 5. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) *Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to section ~~27~~ 6 of this act.*

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

~~{{(e)}} (f)~~ Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

~~{{(f)}} (g)~~ Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department.

~~{{(g)}} (h)~~ In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

- (1) Comply with NRS 385.357;
- (2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;
- (3) Include the data and findings of the support team that provide support for the revisions;
- (4) Set forth goals, objectives, tasks and measures for the school that are:
 - (I) Designed to improve the achievement of the school's pupils;
 - (II) Specific;
 - (III) Measurable; and
 - (IV) Conducive to reliable evaluation;
- (5) Set forth a timeline to carry out the revisions;
- (6) Set forth priorities for the school in carrying out the revisions; and
- (7) Set forth the ~~names~~ **name** and duties of each person who is responsible for carrying out the revisions.

~~{{(h)}} (i)~~ Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school.

~~{{(i)}} (j)~~ Prepare a monthly progress report in the format prescribed by the Department and:

- (1) Submit the progress report to the Department.
- (2) Distribute copies of the progress report to each employee of the school for review.

~~[(i)]~~ *(k)* In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise monthly progress report for use by each support team in accordance with paragraph ~~[(i)]~~ *(j)* of subsection 1.

~~[Sec. 2.]~~ *Sec. 6.* Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall:

(a) Prescribe a form for use by teachers in elementary schools to provide reports to parents and legal guardians of pupils pursuant to this section;

(b) Work in consultation with the Legislative Bureau of Educational Accountability and Program Evaluation, the Nevada Association of School Boards, the Nevada Association of School Administrators, the Nevada State Education Association and the Nevada Parent Teacher Association in the development of the form; and

(c) Make the form available in electronic format for use by school districts and charter schools and, upon request, in any other manner deemed reasonable by the Department.

2. The form must include, without limitation:

(a) A notice to parents and legal guardians that parental involvement is important in ensuring the success of the academic achievement of pupils;

(b) A checklist indicating whether:

(1) The pupil completes his homework assignments in a timely manner;

(2) The pupil is present in the classroom when school begins each day and is present for the entire school day unless his absence is approved in accordance with NRS 392.130;

(3) The parent or legal guardian and the pupil abide by any applicable rules and policies of the school and the school district; and

(4) The pupil complies with the dress code for the school, if applicable; and

(c) A list of the resources and services available within the community to assist parents and legal guardians in addressing any issues identified on the checklist.

3. In addition to the requirements of subsection 2, the Department may prescribe additional information for inclusion on the form, including, without limitation:

(a) A report of the participation of the parent or legal guardian, including, without limitation, whether the parent or legal guardian:

(1) Completes forms and other documents that are required by the school or school district in a timely manner;

(2) Assists in carrying out a plan to improve the pupil's academic achievement, if applicable;

(3) Attends conferences between the teacher and the parent or legal guardian, if applicable; and

(4) Attends school activities.

(b) A report of whether the parent or legal guardian ensures the health and safety of the pupil, including, without limitation, whether:

(1) Current information is on file with the school that designates each person whom the school should contact if an emergency involving the pupil occurs; and

(2) Current information is on file with the school regarding the health and safety of the pupil, such as immunization records, if applicable, and any special medical needs of the pupil.

4. A teacher at an elementary school may provide the form prescribed by the Department, including the additional information prescribed pursuant to subsection 3 if the Department has prescribed such information on the form, to a parent or legal guardian of a pupil if the teacher determines that the provision of such a report would assist in improving the academic achievement of the pupil.

5. A report provided to a parent or legal guardian pursuant to this section must not be used in a manner that:

(a) Interferes unreasonably with the personal privacy of the parent or legal guardian or the pupil;

(b) Reprimands the parent or legal guardian; or

(c) Affects the grade or report of progress given to a pupil based upon the information contained in the report.

6. The principal of each elementary school at which a teacher provides reports pursuant to this section shall provide to the support team established for the school pursuant to NRS 385.3721, if applicable, the information contained in the completed reports for consideration by the support team. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

~~{Sec. 3.}~~ *Sec. 7. NRS 392.4575 is hereby amended to read as follows:*

392.4575 1. The Department shall prescribe a form for educational involvement accords to be used by all public schools in this State. The educational involvement accord must comply with the parental involvement policy:

(a) Required by the federal No Child Left Behind Act of 2001, as set forth in 20 U.S.C. § 6318.

(b) Adopted by the State Board pursuant to NRS 392.457.

2. Each educational involvement accord must include, without limitation:

(a) A description of how the parent or legal guardian will be involved in the education of the pupil, including, without limitation:

(1) Reading to the pupil, as applicable for the grade or reading level of the pupil;

(2) Reviewing and checking the pupil's homework; and

(3) Contributing 5 hours of time each school year, including, without limitation, by attending school-related activities, parent-teacher association meetings, parent-teacher conferences, volunteering at the school and chaperoning school-sponsored activities.

(b) The responsibilities of a pupil in a public school, including, without limitation:

(1) Reading each day before or after school, as applicable for the grade or reading level of the pupil;

(2) Using all school equipment and property appropriately and safely;

(3) Following the directions of any adult member of the staff of the school;

(4) Completing and submitting homework in a timely manner; and

(5) Respecting himself, others and all property.

(c) The responsibilities of a public school and the administrators, teachers and other personnel employed at a school, including, without limitation:

(1) Ensuring that each pupil is provided proper instruction, supervision and interaction;

(2) Maximizing the educational and social experience of each pupil;

(3) Carrying out the professional responsibility of educators to seek the best interest of each pupil; and

(4) Making staff available to the parents and legal guardians of pupils to discuss the concerns of parents and legal guardians regarding the pupils.

3. Each educational involvement accord must be accompanied by, without limitation:

(a) Information describing how the parent or legal guardian may contact the pupil's teacher and the principal of the school in which the pupil is enrolled;

(b) The curriculum of the course or standards for the grade in which the pupil is enrolled, as applicable, including, without limitation, a calendar that indicates the dates of major examinations and the due dates of significant projects, if those dates are known by the teacher at the time that the information is distributed;

(c) The homework and grading policies of the pupil's teacher or school;

(d) Directions for finding resource materials for the course or grade in which the pupil is enrolled, as applicable;

(e) Suggestions for parents and legal guardians to assist pupils in their schoolwork at home;

(f) The dates of scheduled conferences between teachers or administrators and the parents or legal guardians of the pupil;

(g) The manner in which reports of the pupil's progress will be delivered to the parent or legal guardian and how a parent or legal guardian may request a report of progress;

(h) The classroom rules and policies;

(i) The dress code of the school, if any;

(j) The availability of assistance to parents who have limited proficiency in the English language;

(k) Information describing the availability of free and reduced-price meals, including, without limitation, information regarding school breakfast, school lunch and summer meal programs;

(l) Opportunities for parents and legal guardians to become involved in the education of their children and to volunteer for the school or class; and

(m) The code of honor relating to cheating prescribed pursuant to NRS 392.461.

4. The board of trustees of each school district shall adopt a policy providing for the development and distribution of the educational involvement accord. The policy adopted by a board of trustees must require each classroom teacher to:

(a) Distribute the educational involvement accord to the parent or legal guardian of each pupil in his class at the beginning of each school year or upon a pupil's enrollment in the class, as applicable; and

(b) Provide the parent or legal guardian with a reasonable opportunity to sign the educational involvement accord.

5. Except as otherwise provided in this subsection, the board of trustees of each school district shall ensure that the form prescribed by the Department is used for the educational involvement accord of each public school in the school district. The board of trustees of a school district may authorize the use of an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

6. The Department and the board of trustees of each school district shall, at least once each year, review and amend their respective educational involvement accords.

7. If an elementary school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years or more, the principal of the school shall provide to the support team established for the school pursuant to NRS 385.3721 information concerning the distribution of the educational involvement accord and the number of accords which were signed and returned by parents and legal guardians. The information must be provided in an aggregated format and must not disclose the identity of an individual parent, legal guardian or pupil.

~~{Sec. 4.}~~ Sec. 8. NRS 392.461 is hereby amended to read as follows:

392.461 1. The Department shall prescribe by regulation a written policy that establishes a code of honor for pupils relating to cheating on examinations and course work. The policy must be developed in consultation

with the boards of trustees of school districts, the governing bodies of charter schools, educational personnel employed by school districts and charter schools, and local associations and organizations of parents whose children are enrolled in public schools throughout this State.

2. The policy must include, without limitation, a definition of cheating that clearly and concisely informs pupils which acts constitute cheating for purposes of the code of honor.

3. On or before July 1 of each year, the Department shall:

(a) Provide a copy of the code of honor to the board of trustees of each school district and the governing body of each charter school.

(b) Review and amend the code of honor as necessary.

4. Copies of the code of honor must be made available for inspection at each public school located within a school district, including, without limitation, each charter school, in an area on the grounds of the school that is open to the public.

5. *Each classroom teacher shall:*

(a) *Distribute the code of honor to each pupil enrolled in his class and to the parent or legal guardian of each pupil enrolled in his class at the beginning of each school year or upon a pupil's enrollment in his class, as applicable;*

(b) *Provide the pupil and the parent or legal guardian of the pupil with a reasonable opportunity to sign the code of honor; and*

(c) *If the code of honor is returned with the signatures, retain a copy of the signed code of honor in the pupil's file.*

~~{Sec. 5.} Sec. 9. {1.} The Superintendent of Public Instruction shall establish an Advisory Council on Parental Involvement. All appointments to the Advisory Council must be made on or before September 1, 2007.~~

~~2. The Superintendent of Public Instruction shall appoint the following members to the Advisory Council:~~

~~(a) Two parents or legal guardians of pupils enrolled in public schools;~~

~~(b) Two teachers in public schools;~~

~~(c) One administrator of a public school;~~

~~(d) One representative of a private business or industry;~~

~~(e) One member of the board of trustees of a school district in a county whose population is 100,000 or more; and~~

~~(f) One member of the board of trustees of a school district in a county whose population is less than 100,000.~~

~~3. The Superintendent of Public Instruction shall, to the extent practicable, ensure that the members he appoints to the Advisory Council reflect the ethnic, economic and geographic diversity of this State.~~

~~4. The Speaker of the Assembly shall appoint one Assemblyman to the Advisory Council.~~

~~5. The Majority Leader of the Senate shall appoint one Senator to the Advisory Council.~~

~~5.—The Advisory Council shall elect a Chairman and a Vice Chairman from among its members.~~

~~6.—The Department of Education shall provide:~~

~~(a) Administrative support to the Advisory Council; and~~

~~(b) All information that is necessary for the Advisory Council to carry out its duties.~~

~~7.—For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council, except during a regular or special session of the Legislature, he is entitled to receive the:~~

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

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

~~(c) Travel expenses provided pursuant to NRS 218.2207.~~

~~—The compensation, per diem allowances and travel expenses of the legislative members of the Advisory Council must be paid from the Legislative Fund.~~

~~8.—A member of the Advisory Council who is not a Legislator is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which he attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council. The per diem allowance and travel expenses for the nonlegislative members of the Advisory Council must be paid by the Department of Education.] (Deleted by amendment.)~~

~~[Sec. 6.] Sec. 10. [The Advisory Council on Parental Involvement established pursuant to section 5 of this act shall:~~

~~1.—Review the policy of parental involvement adopted by the State Board of Education and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;~~

~~2.—Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347;~~

~~3.—Review any effective practices carried out in individual school districts in this State to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;~~

~~4.—Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;~~

~~5.—Identify methods to effectively communicate and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including~~

~~without limitation, work schedules, single parent homes and other family obligations;~~

~~6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;~~

~~7. Identify methods to effectively communicate with and provide outreach to parents and legal guardians of pupils who are limited English proficient, as defined in NRS 385.007;~~

~~8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;~~

~~9. On or before August 1, 2008, submit a preliminary written report to the Legislative Committee on Education; and~~

~~10. On or before February 1, 2009, submit a final written report of its findings and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.] (Deleted by amendment.)~~

~~{Sec. 7.}~~ **Sec. 11.** On or before September 1, 2007, the Department of Education shall prescribe a form in accordance with section ~~{2}~~ **6** of this act for use commencing with the 2007-2008 school year by teachers in elementary schools.

Sec. 12. 1. On or before September 1, 2007, the Superintendent of Public Instruction shall appoint to the Advisory Council on Parental Involvement established pursuant to section 3 of this act:

(a) Four members to terms commencing on September 1, 2007, and expiring on June 30, 2009.

(b) Four members to terms commencing on September 1, 2007, and expiring on June 30, 2010.

2. On or before September 1, 2007, the Speaker of the Assembly and the Majority Leader of the Senate shall each appoint a member to the Advisory Council who is a member of the house that he represents to a term commencing on September 1, 2007, and expiring on June 30, 2009.

~~{Sec. 8.}~~ **Sec. 13. {1.}** This act becomes effective on July 1, 2007.

~~{ 2. Sections 5 and 6 of this act expire by limitation on June 30, 2009.}~~

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegura moved that Senate Bill No. 146 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Ocegura moved that Assembly Bill No. 291; Senate Bills Nos. 18, 58, 146, 147, 163, 169, 171, 182, 184, 187, 195, 206, 219, 228, 239, 243, 247, 266, 267, 275, 293, 298, 300, 303, 312, 313, 315, 328, 329, 340,

345, 352, 356, 366, 367, 398, 400, 403, 417, 419, 420, 430, 447, 451, 456, 457, 470, 481, 483, 486, 491, 495, 500, 502, 503, 504, 508, 511, 515, 518, 519, 520, 533, 534, 535, 536, 549; Senate Joint Resolutions Nos. 6, 10, 11, 12, 13, 15, 16, 17, and 18 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REMARKS FROM THE FLOOR

Assemblyman Marvel requested that the following remarks be entered in the Journal.

ASSEMBLYMAN MARVEL:

Thank you, Madam Speaker. It is a pleasure, for the second time, to be able to honor a constituent and a dear friend of all of us who have served with him—Virgil Getto. The resolution speaks well to all of his accomplishments. Virgil, as you know, will go down in the books as the only legislator to be a freshman five times. With term limits, I imagine that record will stand forever. Virgil has really been a cornerstone for the state of Nevada, for the ranching and farming industry, and certainly here in the Legislature. He and my friend, former Speaker Dini, were here when I was here. They were mentors to many of us. It is a pleasure to have served with someone who has been involved in education and legislation and is a community leader. It is a pleasure to have Virgil and his family and friends here today.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. Virgil, I had two pages of remarks I made last time, so I will not repeat them. I said a lot of nice things about you the first time. Among those distinctions, like being a five-time elected freshman, you will be the only person not to show up for his Wall of Distinction induction. Virgil, you were a role model to me growing up in Fallon, and I just wanted to tell you that. I appreciate everything you have done for me and my family and rural Nevada, as well. Thank you.

ASSEMBLYMAN ANDERSON:

I, too, want to rise in support. While I did not speak at the first presentation of this resolution, I did want to recognize that Virgil's commitment to education was legendary. When I had the opportunity to come to the Legislature in the 1980s and talk about education issues, he was always a willing ear and a mentor relative to the questions which were important to teachers and to kids and schools. I think that is what Virgil is all about. When I came here as a freshman in 1991, he and Speaker Dini clearly set the tone of that session, which was "It is not about me; it is about Nevada." He made sure that Nevada viewpoint was always there. I appreciated his willingness to always remember that he came from the "House of the People." It is in the "House of the People" that we honor him. For that, I rise in recognition of my good friend, Virgil Getto.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. I, too, rise in support of the resolution. When I came to the Assembly, there was no question that Virgil was my best friend and mentor. There was no better teacher than Virgil. He always stood up for what he believed in. As I said before, he would walk down the hall and claim he was not going to say anything that day. We would get down here and some issue would catch his eye and he would talk for 20 minutes until he either got the bill passed or defeated. I really enjoyed Virgil for so many years. He was such a great friend. He's a real farmer, you know. Right now, when Virgil goes back, he doesn't go back to retire; he goes back to farm. He really hates weeds so he burns every ditch in Churchill County. Virgil, it is so good to see you. I am glad you made it this time. Good luck. Thank you.

ASSEMBLYMAN ARBERRY:

Thank you, Madam Speaker. It is good to see Virgil here today. I talked about the cow you gave me years ago. You probably don't remember my cow. That is okay. Pete Goicoechea has

given me a new cow, Virgil. So, I have a new cow. It is good to see you. It was an honor working with you over the years. We had some great talks; we broke bread together some evenings and at lunch. You look healthy, you look well. We are just glad to see you. Congratulations.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I would like to add my comments in support of the resolution. It is a great honor for me to be able to continue the tradition of having a Wall of Distinction. It is our version of a hall of fame. This session the responsibility of who to select was placed with me. I started interviewing staff and veteran legislators and my colleagues. Virgil's name was presented. Everyone I vetted it to agreed. I think all six of our recipients have the following characteristics: integrity, accomplishment, dedication, tenacity, a bit of personality, and most of all, caring about our state and putting the needs of our state above all else. Virgil, you join very distinguished company in exemplifying all those traits. Your accomplishments are appreciated, and most of all, they are still remembered. The leadership all our recipients displayed carries forward to this day as does the legacy they have set. We thank you. We so are pleased to be able to honor you.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 6, 57, 95, 131, 154, 181, 217, 224, 233, 236; Senate Bills Nos. 20, 35, 100, 148, 227, 269, 302, 306; Senate Concurrent Resolution No. 44.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Anderson, the privilege of the floor of the Assembly Chamber for this day was extended to Gail Ruff.

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Speaker Emeritus Joseph E. Dini, Jr., former Chief Clerk Mouryne Landing Dini, Richard Morgan, Tina Morgan, Susan Williams, Reid Williams, Ted Sorenson, Donna Sorenson, Janet Hurst, Diane Fouret, Christine Smith, Emily Wells, and Charlie Wells.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Marlea McKinstry, Darcy Wagner, Mary Carter, and Don Carter.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Martha P. King Elementary School: Sarah Dowse, Dylan Coleman, Joshua Burnette, Jacob Domzalski, Brooke Ewell, Cailyn Cota, Lars Palmer, Garrett Meyer, Andrea Shay, Melyssa Ebbert, Tristyn Clark, Taylor Smith, Morgan Gilmour, James Rushworth, Robin Coppola, Carol Page, Tina Coleman, Elizabeth Lake, Julie Ewell, Sherry Cota, Cathy Meyer, James Ebbert, Troy Gilmour, Andrew Barth, Christopher Childress, McKenzie Cummings, Brooke DeBoer, Sarah Dey, Dustin Edlund, Logan Kanaley, Owen Murnane, Jane Nevarez, Carolyn Osborne, Jessica Purdy, Taylor Roberts, Olivia

Traasdahl, Alyssa Ybarra; teacher Robin Lee, Robin Coppola, and Carol Page; chaperones Ron Cummings, Jon DeBoer, Roxanne Dey, Noel Kanaley, Lenda Murnane, Tina Osborne, Mary Branning, Dayna Pullen, Kaitlyn Chymych, Lynn Conell, Nicolas Chavez, Lee Esplin, Marc Traasdahl, Joe Purdy, and Connie Purdy.

On request of Assemblyman Hogan, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from John R. Hummel Elementary School: Jazmin Boyd, Christopher Decker, Shadell Carter, Chase Deneef, Rebecca Freer, Timia Greenlee, Kassandra Her, Brian Kondo, Ian Low, Samantha Marroquin, Travis Montefalcon, Christopher Mulligan, Ana Nunes, Tyler Pacyna, Maxine Rodriguez, Gage Spencer, Alec Young, Samantha Bojorquez, Jacquelyn Bran, Kawika Brown, Aleah Cleveland, Carlos Corrales, Seth Emsweller, Shiloh Graff, Somchai Greicar, Jacob Lanier, Marcos Nunezx, Malachi Rogers; teacher Christina Eager; chaperones Rachel Leeney, Iya Marin, Janet Freer, Antonio Nunes, Magdalena Pacyna, Theresa Young, Marti Grill, Shane Emsweller, Taunya Lanier, Sauling Greicar, Eliza Cleveland, Susie Deneef and Heidi Costolo.

On request of Assemblyman Kihuen, the privilege of the floor of the Assembly Chamber for this day was extended to Lorraine McKendrick.

On request of Assemblyman Marvel, the privilege of the floor of the Assembly Chamber for this day was extended to former Assemblyman Virgil Getto, Pat Getto, Mike Getto, and Andrea Caldwell.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Ofelia Monje, Frank Daykin, and Genie Ohrenschall.

On request of Assemblyman Parks, the privilege of the floor of the Assembly Chamber for this day was extended to Joan Lolmaugh.

Assemblyman Ocegüera moved that the Assembly adjourn until Wednesday, May 23, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 5:30 p.m.

Approved:

BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL

Chief Clerk of the Assembly