THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 24, 2007

Assembly called to order at 11:16 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our Father, as we come before You this day, we would not weary You with our constant begging—we would not be like petulant children seeking diplomas without study or wages without work. As Your servants here sincerely seek to do right, make it plain to them. Knowing that criticism will come, help them to take from it what is helpful and to forgive what is unjust and unkind. Amid all the pressures brought upon them, may they ever hear Your still small voice and follow Your guidance for the good of all the people, that Your will may be done in this state, through these Your servants.

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 was referred Senate Bill No. 69, 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 Government Affairs, to which were referred Senate Bills Nos. 84, 101, 106, 117, 136, 201, 203, 222, 234, 307, 374, 487, 497, 498, 509, 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 202, 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 Transportation, to which was referred Senate Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 23, 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. 42, 201, 230, 235, 259, 359; Senate Bill No. 158.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 56, Senate Amendment No. 736; Assembly Bill No. 215, Senate Amendment No. 751, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 499.

Also, I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 719 to Senate Bill No. 154.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblymen Mabey, Goicoechea, Goedhart, Carpenter, Grady, Beers, Hardy and Settelmeyer (Emergency Request of Mabey):

Assembly Bill No. 624—AN ACT relating to special fuel; providing that a farm vehicle or special mobile equipment that contains dyed special fuel in the fuel tank may be operated on certain highways in this State under certain circumstances; and providing other matters properly relating thereto.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation

Motion carried.

Senate Bill No. 158.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Assemblywoman Parnell moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:22 a.m.

ASSEMBLY IN SESSION

At 11:23 a.m.

Madam Speaker presiding.

Quorum present.

Senate Bill No. 499.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 69.

Bill read second time.

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

Amendment No. 938.

AN ACT relating to real estate; defining the term "agency" in the context of real estate brokers, salesmen and qualified intermediaries; **revising the duties of a real estate licensee;** allowing a client to waive certain required duties of a real estate licensee which relate to offers made to or by the client; **prohibiting the waiver of other duties of a licensee;** allowing for communications with the client of another broker under certain permissible circumstances; clarifying that such communication does not create an agency relationship with the client of the other broker; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines certain terms used in chapter 645 of NRS which relate to real estate brokers, salesmen and qualified intermediaries. (NRS 645.0005-645.044) ~~[Sections 1 and]~~ 2 **Section 1.3** of this bill ~~[define]~~ **defines** the term "agency" for that chapter.

Existing law imposes certain duties on a licensee who acts as an agent in a real estate transaction. (NRS 645.252) Section 2.5 of this bill provides that such a licensee owes no duty to conduct an investigation of the condition of the property which is the subject of the real estate transaction.

Existing law ~~[creates certain requirements for]~~ **imposes certain duties on** a licensee who has entered into a brokerage agreement to provide representation in a real estate transaction. (NRS 645.254) One of those ~~[requirements]~~ **duties** is to present all offers made to and by the client as soon as is practicable. (NRS 645.254) Section 3 of this bill allows a client to waive that ~~[requirement]~~ **duty** by signing a **waiver on a** form provided by the Real Estate Division of the Department of Business and Industry. **Section 1.7 of this bill provides that no other duty of a licensee set forth in section 2.5 or 3 may be waived.**

Existing law allows a person to negotiate a sale, exchange or lease of real estate with the exclusive client of another broker only if permission has been obtained from that other broker. (NRS 645.635) Section 4 of this bill allows for further communications after such negotiations but before closing. ~~[Section 4 also clarifies that such negotiations do not create an agency relationship between the person and the client of the other broker.]~~

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

Section 1. **Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.**

~~[Section 1.]~~ ***Sec. 1.3.*** ~~[Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. "Agency" means a relationship between a principal and an agent arising out of a brokerage agreement whereby the agent is engaged to do certain acts on behalf of the principal in dealings with a third party.

2. The term does not include a relationship arising solely from negotiations or communications with a client of another broker with the written permission of the broker in accordance with the provisions of subsection 2 of NRS 645.635.

Sec. 1.7. Except as otherwise provided in subsection 4 of NRS 645.254, no duty of a licensee set forth in NRS 645.252 or 645.254 may be waived.

Sec. 2. NRS 645.0005 is hereby amended to read as follows:

645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, ***and section ~~[1]~~ 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 2.5. **NRS 645.252 is hereby amended to read as follows:**

645.252 A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:

(a) Any material and relevant facts, data or information which he knows, or which by the exercise of reasonable care and diligence he should have known, relating to the property which is the subject of the transaction.

(b) Each source from which he will receive compensation as a result of the transaction.

(c) That he is a principal to the transaction or has an interest in a principal to the transaction.

(d) Except as otherwise provided in NRS 645.253, that he is acting for more than one party to the transaction. If a licensee makes such a disclosure, he must obtain the written consent of each party to the transaction for whom he is acting before he may continue to act in his capacity as an agent. The written consent must include:

(1) A description of the real estate transaction.

(2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he is required to do so by a court of competent jurisdiction or he is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on his behalf.

(5) A statement that the party is giving his consent without coercion and understands the terms of the consent given.

(e) Any changes in his relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide the appropriate form prepared by the Division pursuant to NRS 645.193 to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to chapter 645D of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to ~~[a]~~ ***the*** real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

Sec. 3. NRS 645.254 is hereby amended to read as follows:

645.254 A licensee who has entered into a brokerage agreement to represent a client in a real estate transaction:

1. Shall exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out his duties pursuant to the terms of the brokerage agreement;

2. Shall not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless he is required to do so pursuant to an order of a court of competent jurisdiction or he is given written permission to do so by the client; ~~[and]~~

3. Shall ~~[promote the interests of his client by:~~

~~(a) Seeking]~~ ***seek*** a sale, ***purchase, option, rental or*** lease ~~[or]~~ ***of real*** property at the price and terms stated in the brokerage agreement or at a price acceptable to the client ~~[.~~

~~(b) Presenting]~~ **;**

4. Shall present all offers made to or by the client as soon as is practicable ~~[.]~~ **, *unless the client*** ~~*[signs a form which is provided by the Division and which waives]*~~ ***chooses to waive the duty of the licensee to present all offers*** ~~*[.*~~

~~*(c) Disclosing]*~~ ***and signs a waiver of the duty on a form prescribed by the Division;***

5. Shall disclose to the client material facts of which the licensee has knowledge concerning the transaction ~~[.~~

~~(d) Advising]~~ **;**

6. Shall advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee ~~[.~~

~~(e) Accounting]~~ ***; and***

7. Shall account for all money and property he receives in which the client may have an interest as soon as is practicable.

Sec. 4. NRS 645.635 is hereby amended to read as follows:

645.635 The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate ***, or communicating after such negotiations but before closing,*** directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency ~~[or]~~ ***, including, without limitation,*** an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker. ~~*[Negotiation or communication with such permission does not create an agency relationship between the person and the client of the other broker.]*~~

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller ~~[.]~~ ***, except as*** ~~*[may be]*~~ ***otherwise provided*** ~~*[by paragraph (b) of subsection 3]*~~ ***in subsection 4 of NRS 645.254.***

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be ***in*** compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the Division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing ~~[.]~~ ***, except as*** ~~*[may be]*~~ ***otherwise provided*** ~~*[by paragraph (b) of subsection 3]*~~ ***in subsection 4 of NRS 645.254.***

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance ~~[.]~~ ***, except as*** ~~*[may be]*~~ ***otherwise provided*** ~~*[by paragraph (b) of subsection 3]*~~ ***in subsection 4 of NRS 645.254.***

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

Sec. 5. This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 84.

Bill read second time.

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

Amendment No. 797.

AN ACT relating to land use planning; revising provisions governing certificates pertaining to the subdivision of existing industrial or commercial buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a professional engineer or registered architect is required to certify that a proposed subdivision of an existing industrial or commercial building will comply with the applicable building code and such a certificate is required to be attached to any document that proposes to subdivide the building. (NRS 278.325) This bill requires such a certificate to indicate that the building complies with applicable current state law and with the building code in effect at the time the building was constructed. This bill also requires that ~~[, in a county whose population is 400,000 or more (currently Clark County),]~~ such a certificate be reviewed, approved and signed by the building official having jurisdiction over the area within which the building is situated.

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

Section 1. NRS 278.325 is hereby amended to read as follows:

278.325 1. If a subdivision is proposed on land which is zoned for industrial or commercial development, neither the tentative nor the final map need show any division of the land into lots or parcels, but the streets and any other required improvements are subject to the requirements of NRS 278.010 to 278.630, inclusive.

2. No parcel of land may be sold for residential use from a subdivision whose final map does not show a division of the land into lots.

3. Except as otherwise provided in subsection 4, a boundary or line must not be created by a conveyance of a parcel from an industrial or commercial subdivision unless a professional land surveyor has surveyed the boundary or line and set the monuments. The surveyor shall file a record of the survey

pursuant to the requirements set forth in NRS 625.340. Any conveyance of such a parcel must contain a legal description of the parcel that is independent of the record of survey.

4. The provisions of subsection 3 do not apply to a boundary or line that is created entirely within an existing industrial or commercial building. A certificate ***prepared*** by a professional engineer or registered architect ~~[which certifies]~~ ***certifying*** compliance with the applicable ***law of this State in effect at the time of the preparation of the certificate and with the*** building code ***in effect at the time the building was constructed*** must be attached to any document which proposes to subdivide ***such*** a building.

5. A certificate prepared pursuant to subsection 4 ~~*[for a building located in a county whose population is 400,000 or more]*~~ ***must be reviewed, approved and signed by the building official having jurisdiction over the area within which the building is situated.***

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 101.

Bill read second time.

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

Amendment No. 746.

AN ACT relating to the City of Sparks; authorizing the City Council to employ Special Counsel ~~[,]~~ **under certain circumstances;** revising certain provisions governing the qualifications of members of the Civil Service Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the City Council of the City of Sparks **, by majority vote, after conducting a public hearing,** to employ attorneys to perform any civil or criminal duty of the City Attorney. Section 1 further provides that those attorneys are responsible only to the City Council and that the City Attorney does not have any authority over the employment of an attorney hired by the City Council pursuant to this section of the bill.

Section 2 of this bill amends the Sparks City Charter to prohibit a person from serving as a member of the Civil Service Commission if the person is: (1) an employee of the City of Sparks; (2) serving as an appointed member of any other board, commission or committee of the City; or (3) related within the third degree of consanguinity or affinity to a person who is an employee of the City of Sparks. (Sparks City Charter § 9.010) Section 3 of this bill exempts current members of the Civil Service Commission from these provisions until their current terms expire.

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

Section 1. The Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, at page 724, is hereby amended by adding thereto a new section to be designated as section 3.055, immediately following section 3.050, to read as follows:

Sec. 3.055 Employment of Special Counsel. The City Council may, by majority vote, after conducting a public hearing, employ attorneys to perform any civil or criminal duty of the City Attorney. Such attorneys are responsible only to the City Council, and the City Attorney shall have no responsibility or authority concerning the subject matter of such employment.

Sec. 2. Section 9.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 350, Statutes of Nevada 1987, at page 791, is hereby amended to read as follows:

Sec. 9.010 Civil Service Commission: Appointment; ***qualifications;*** removal; compensation.

1. There is a Civil Service Commission consisting of five residents of the City who must be appointed by the Mayor, subject to confirmation by the City Council. They shall serve terms as established by ordinance.

2. ***A person may not serve as a member of the Commission if he is:***

(a) An employee of the City;

(b) A member of the City Council or an appointed member of any other board, commission or committee of the City; or

(c) Related within the third degree of consanguinity or affinity to a person who is an employee of the City.

3. Every person appointed as a member of the Commission shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by the Constitution of this State, and file it, certified by the officer administering it, with the Clerk of the City.

~~[3.]~~ ***4.*** Any member of the Commission may be removed by a majority vote of the Commission for cause, including the failure or refusal to perform the duties of the office, the absence from three successive regular meetings of the Commission, or ceasing to meet any qualification for appointment to the Commission as ***set forth in this section or*** provided by the City Council.

~~[4.]~~ ***5.*** Vacancies on the ~~[Civil Service]~~ Commission from whatever cause must be filled by appointment by the Mayor, subject to confirmation by the City Council.

~~[5.]~~ ***6.*** The City Council shall provide the services of such employees as are necessary to enable the ~~[Civil Service]~~ Commission to carry out its duties in a timely and proficient manner.

~~[6.]~~ ***7.*** The City Council shall provide by ordinance the amount of compensation each member of the ~~[Civil Service]~~ Commission is entitled to receive for each full meeting he attends.

Sec. 3. The amendatory provisions of section 2 of this act do not apply to the current term of a person who is a member of the Civil Service Commission on October 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 106.

Bill read second time.

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

Amendment No. 788.

AN ACT relating to homeland security; prescribing the persons authorized to inspect certain confidential or restricted documents relating to potential acts of terrorism; eliminating the prospective expiration of the provisions relating to such confidential and restricted documents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 3 and 4 of this bill prescribe the persons who may properly inspect certain confidential documents that are prepared and maintained to prevent or respond to an act of terrorism and certain restricted documents which include blueprints or plans of certain places likely to be targeted for a terrorist attack to include state, county and city emergency managers, members of Nevada terrorism early warning centers or fusion intelligence centers and their staff **.** ~~[and employees]~~ **Employees** of fire-fighting, law enforcement and public health agencies ~~[.]~~ **are also included if such employees have been designated by the heads of their respective agencies as having an operational need to inspect such confidential and restricted documents.** (NRS 239C.210, 239C.220) Section 5 of this bill eliminates the prospective expiration of the provisions relating to such confidential and restricted documents.

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

Section 1. Chapter 239C of NRS is hereby amended by adding thereto a new section to read as follows:

"Law enforcement agency" means:

1. The sheriff's office of a county;

2. A metropolitan police department;

3. A police department of an incorporated city; or

4. The Department of Public Safety.

Sec. 2. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of

preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery **,** ~~[and]~~ not subject to inspection by the general public ***and may only be inspected by or released to public safety and public health personnel*** if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. As used in this section, "public safety and public health personnel" includes:

(a) State, county and city emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies ~~*[;]*~~ ***, if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and***

(d) Employees of a public health agency , if the agency is one that would respond to a disaster ~~*[.]*~~ ***and if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.***

Sec. 4. NRS 239C.220 is hereby amended to read as follows:

239C.220 1. Unless made confidential by specific statute, a restricted document may be inspected only by a person who provides:

(a) His name;

(b) A copy of his driver's license or other photographic identification that is issued by a governmental entity;

(c) The name of his employer, if any;

(d) His citizenship; and

(e) Except as otherwise provided in this paragraph, a statement of the purpose for the inspection. A person is not required to indicate the purpose for inspecting a restricted document if the person is ~~[an]~~ ***:***

(1) A state, county or city emergency manager;

(2) A member or staff person of a terrorism early warning center or fusion intelligence center in this State;

(3) An employee of any fire-fighting or law enforcement agency ~~[.]~~ ~~*[;]*~~ ***, if the head of the agency has designated the employee as having an operational need to inspect restricted documents; or***

(4) An employee of a public health agency , if the agency is one that would respond to a disaster ~~*[.]*~~ ***and if the head of the agency has designated the employee as having an operational need to inspect restricted documents. As used in this subparagraph, "disaster" has the meaning ascribed to it in NRS 414.0335.***

2. Except as otherwise provided in subsection 3, a public officer or employee shall observe any person while the person inspects a restricted document in a location and in a manner which ensures that the person does not copy, duplicate or reproduce the restricted document in any way.

3. A restricted document may be copied, duplicated or reproduced:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary in the case of an act of terrorism or other related emergency;

(c) To protect the rights and obligations of a governmental entity or the public;

(d) Upon the request of a reporter or editorial employee who is employed by or affiliated with a newspaper, press association or commercially operated and federally licensed radio or television station and who uses the restricted document in the course of such employment or affiliation; or

(e) Upon the request of a registered architect, licensed contractor or a designated employee of any such architect or contractor who uses the restricted document in his professional capacity.

4. A public officer or employee shall inform any person who inspects a restricted document of the provisions of this section.

Sec. 5. Section 40 of chapter 402, Statutes of Nevada 2003, at page 2469, is hereby amended to read as follows:

Sec. 40. 1. This section and sections 1 to 33, inclusive, 38, 38.5 and 39 of this act become effective on July 1, 2003.

2. Sections 34 to 37, inclusive, of this act become effective on January 1, 2004.

~~[3. The provisions of sections 21 to 24, inclusive, and 27.5 of this act expire by limitation on June 30, 2007.]~~

Sec. 6. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 117.

Bill read second time.

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

Amendment No. 747.

AN ACT relating to the Reno-Tahoe Airport Authority; exempting certain contracts entered into by the Board of Trustees of the Authority from certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Reno-Tahoe Airport Authority is subject, with certain exceptions, to the Local Government Purchasing Act and requirements relating to competitive bidding on public works. (Chapters 332, 338 and 339 of NRS; Reno-Tahoe Airport Authority Act §§ 9, 9.5, 10.2) This bill exempts the Authority from the Local Government Purchasing Act and certain requirements relating to contracts for public works ~~[for contracts entered into by the Board of Trustees of the Authority for a project concerning which the relevant information has been determined]~~ **for the**

construction or installation of an integrated in-line explosive detection system that is mandated by the Transportation Security Administration of the United States Department of Homeland Security **.** ~~[to constitute sensitive security information pursuant to 49 C.F.R. Part 1520.]~~ **This bill also provides that such exemption expires by limitation on July 1, 2009.**

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

Section 1. The Reno-Tahoe Airport Authority Act, being chapter 474, Statutes of Nevada 1977, at page 968, is hereby amended by adding thereto a new section to be designated as section 9.3, immediately following section 9, to read as follows:

Sec. 9.3. 1. Except as otherwise provided in subsection 2, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, acquisition, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by the Board for ~~*[a project, acquisition, works or improvement concerning which the relevant information has been determined]*~~ ***the construction or installation of an integrated in-line explosive detection system mandated by the Transportation Security Administration of the United States Department of Homeland Security .*** ~~*[to constitute sensitive security information pursuant to 49 C.F.R. Part 1520.]*~~

2. A contract entered into by the Board pursuant to this section must contain a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work performed pursuant to the contract.

3. As used in this section:

(a) "Explosive detection system" means a system described in 49 U.S.C. § 44901(d).

(b) "Integrated in-line explosive detection system" means an explosive detection system that is integrated into an airport's baggage handling conveyor system.

Sec. 2. Section 9 of the Reno-Tahoe Airport Authority Act, being chapter 474, Statutes of Nevada 1977, as last amended by chapter 369, Statutes of Nevada 2005, at page 1391, is hereby amended to read as follows:

Sec. 9. 1. Except as otherwise provided in subsection 2 and ~~[section]~~ ***sections 9.3 and*** 9.5 of this act, the Board shall comply with the provisions of the Local Government Purchasing Act and the Local Government Budget and Finance Act.

2. Except as otherwise provided in section 10.2 of this act, any concession agreement entered into by the Authority in conformity with the provisions of that section need not conform to the requirements of the Local Government Purchasing Act.

Sec. 3. This act becomes effective upon passage and approval ~~[.]~~ **and expires by limitation on July 1, 2009.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 136.

Bill read second time.

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

Amendment No. 680.

AN ACT relating to periods of observance; designating the month of May of each year as Archeological Awareness and Historic Preservation Month in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, various days and weeks of observance are recognized in this State. (NRS 236.018-236.065) This bill designates the month of May of each year as Archeological Awareness and Historic Preservation Month in this State and requires the Governor to issue annually a proclamation encouraging the observance of Archeological Awareness and Historic Preservation Month.

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

Section 1. Chapter 236 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The month of May of each year is designated as Archeological Awareness and Historic Preservation Month in this State.

2. The Governor shall issue annually a proclamation encouraging the observance of Archeological Awareness and Historic Preservation Month. The proclamation may, without limitation:

(a) Call upon state and local officers, private nonprofit groups and foundations, schools, businesses and other public and private entities to work toward the goal of preserving the irreplaceable historic, archeological and cultural resources of this State;

(b) Recognize the important contributions of many cultures to the history of this State; and

(c) Recognize the importance of specific historic, archeological and cultural sites in this State, including, without limitation:

(1) Tule Springs in southern Nevada as an area well known in the scientific community as one of the best Pleistocene paleontologic sites in the western United States and in which the fossil remains of several extinct animals have been found, including ground sloths, mammoths, prehistoric horses and American camels; ~~[and]~~

(2) Springs Preserve in southern Nevada as a site organized to manage the rich cultural and biological resources of the 180-acre Big Springs Archaeological District, which is considered to be the birthplace of the City of Las Vegas and in which archeological discoveries have been made, including a Pueblo Indian pithouse, one of the last undisturbed spring mounds, pottery, arrowheads and other artifacts, endangered plants and animals, as well as historic buildings and infrastructure from southern Nevada's first water system; and

(3) Other specific historic, archeological and cultural sites located throughout this State in both urban and rural areas, regardless of whether those sites are listed in the National Register of Historic Places.

Sec. 2. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 201.

Bill read second time.

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

Amendment No. 796.

AN ACT relating to public works; authorizing a public body to contract with a construction manager at risk for the preconstruction and construction of a public work; setting forth the method for selecting a construction manager at risk; authorizing a public body to hire a construction manager as agent to assist the public body in overseeing the construction of a public work; requiring local governments to conduct a constructability review under certain circumstances before constructing certain public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-12 of this bill authorize a public body to enter into contracts with a construction manager at risk for the preconstruction and construction of a public work and provide the method for selecting a construction manager at risk. Under the construction manager at risk method for constructing a public work, a public body may enter into a contract for a negotiated price with a construction manager at risk to provide preconstruction services for the public work that include, without limitation, design support, construction estimating, value and system analysis and scheduling. After the public body has obtained the final design for the public work, the public body and the construction manager at risk are required to attempt to negotiate a contract for the construction manager at risk to construct the public work. If the public body and the construction manager at risk enter into such a contract, the contract must be for **: (1)** a guaranteed maximum price ~~[.]~~ **including the cost of the work plus a fee; (2)** a fixed price **;** or **(3)** a fixed price plus

reimbursement for overhead and other costs and expenses related to the construction of the public work.

Section 14 of this bill requires a local government or its authorized representative to conduct a constructability review to determine if the plans and specifications for a public work are complete and contain all necessary information, if: (1) such plans and specifications are to be used for the first time on a public work; or (2) such plans and specifications are for a public work that ~~[has an estimated cost which exceeds $10,000,000.]~~ **is a building at least three stories in height.** This review must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS.

Sections 13 and 21 **of this bill** authorize a public body to employ a construction manager as agent to assist the public body in overseeing the construction of a public work. A construction manager as agent assists in the planning, scheduling and management of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent is prohibited from taking part in the design or construction of the public work.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. ***A public body may construct a public work by:***

1. Selecting a construction manager at risk pursuant to the provisions of sections 4 to 8, inclusive, of this act; and

2. Entering into separate contracts with a construction manager at risk:

(a) For preconstruction services, including, without limitation:

(1) ~~[Determining]~~ Assisting the public body in determining whether scheduling or design problems exist that would delay the construction of the public work;

(2) Estimating the cost of the labor and material for the public work; and

(3) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

(b) To construct the public work.

Sec. 3. ***To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:***

1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for statements of qualifications pursuant to section 4 of this act;

2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

3. Be licensed as a contractor pursuant to chapter 624 of NRS; and

4. If the project is for the design of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 4. ***1. A public body shall advertise for statements of qualifications for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.***

2. A request for a statement of qualifications published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost ~~*[for preconstruction services;]*~~ ***of construction;***

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the ~~*[design]*~~ ***preconstruction and construction of the public work will begin and end;***

(e) The date by which statements of qualifications must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a statement of qualifications;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; and

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate statements of qualifications.

3. A statement of qualifications must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope;

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) The applicant's preliminary proposal for managing the preconstruction and construction of the public work;

(d) Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

(e) Evidence that the applicant has obtained or has the ability to obtain such insurance ~~*[covering general liability and liability for errors and omissions;]*~~ ***as may be required by law; and***

(f) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333 . ~~[; and~~

~~(g) Evidence of the financial condition of the applicant.]~~

Sec. 5. ***1. The public body shall appoint a panel consisting of at least three members to rank the statements of qualifications submitted to the public body by evaluating the statements of qualifications as required pursuant to subsections 2 and 3.***

2. The panel shall rank the statements of qualifications by:

(a) Verifying that each applicant satisfies the requirements of section 3 of this act; and

(b) Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to section 4 of this act.

3. When ranking the statements of qualifications, the panel shall assign a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works.

4. After the panel ranks the statements of qualifications, the public body shall:

(a) Make available to the public ~~[the results of the panel's evaluations of the statements of qualifications and]~~ the rankings of the applicants; and

(b) Except as otherwise provided in subsection 5, select at least the two but not more than the five applicants that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to section 6 of this act.

5. If the public body did not receive at least two statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and section 3 of this act, the public body may not contract with a construction manager at risk.

Sec. 6. ***1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of section 5 of this act, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:***

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors . ~~*[; and*~~

~~*(f) A detailed estimate of the proposed fee for the preconstruction services that the applicant will provide to the public body related to the public work.]*~~

Sec. 7. ***1. The panel appointed by the public body pursuant to section 5 of this act shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.***

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

Sec. 8. ***1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to section 7 of this act, after the public body has finalized the design for the public work, the public body*** ~~*[and construction manager at risk]*~~ ***shall enter into negotiations with the construction manager at risk for a contract to construct the public work for the public body*** ~~*[at:*~~

~~*(a) At]*~~ ***for:***

(a) The cost of the work, plus a fee, with a guaranteed maximum price;

(b) A fixed price; or

(c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work, the public body:

(a) Shall terminate negotiations with that applicant; and

(b) May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, and section 14 of this act.

Sec. 9. ***A contract entered into pursuant to section 8 of this act that is for a guaranteed maximum price may include a provision that authorizes the construction manager at risk to receive all or part of any difference between the guaranteed maximum price set forth in the contract and the actual price of construction of the public work, if the actual price is less than the guaranteed maximum price.***

Sec. 10. ***A contract awarded to a construction manager at risk pursuant to section 7 or 8 of this act:***

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. Must specify a date by which performance of the work required by the contract must be completed.

3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.

4. [Except as otherwise provided in subsection 5, must not require the construction manager at risk to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

5. May require the construction manager at risk to defend, indemnify and hold harmless the public body and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorney's fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the construction manager at risk or the employees or agents of the construction manager at risk in the performance of the contract.

6.] Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the

preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 11. ***A construction manager at risk who enters into a contract for the construction of a public work pursuant to section 8 of this act:***

1. Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.

2. If the public work involves the construction of a fixed work that is described in subsection 2 of NRS 624.215, shall perform not less than 25 percent of the construction of the fixed work himself or using his own employees.

3. If the public work involves the construction of a building or structure that is described in subsection 3 of NRS 624.215, may perform himself or using his own employees as much of the construction of the building or structure that the construction manager at risk is able to demonstrate that he or his own employees have performed on similar projects.

Sec. 12. ***1. If a construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act wishes to enter into a contract with a subcontractor to provide materials, equipment, work or other services on the public work, the subcontractor must be*** ~~*[licensed]*~~ ***:***

(a) Licensed pursuant to chapter 624 of NRS ; and ~~*[selected]*~~

(b) Selected by the construction manager at risk based on the process of competitive bidding ~~*[.]*~~ ***set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.***

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk entered into a contract for the provision of materials, equipment, work or other services on the public work.

Sec. 13. ***1. A construction manager as agent:***

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely

completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not take part in the design or construction of the public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.

Sec. 14. ***1. Before a local government or its authorized representative advertises for bids for a contract for a public work, the local government or its authorized representative shall perform a review of the approved plans and specifications to determine if the plans and specifications are complete and contain all necessary information and specifications to construct the public work, if:***

(a) The plans and specifications are to be used for the first time on a public work; and

(b) The plans and specifications are for a public work that ~~*[has an estimated cost which exceeds $10,000,000.]*~~ ***is a building at least three stories in height.***

2. A constructability review required pursuant to subsection 1 must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS and must include, without limitation:

(a) A determination of whether a competent contractor would be able to construct the public work based on the approved plans and specifications; and

(b) A review of the approved plans and specifications for the public work for completeness, clarity and economic feasibility.

3. If the local government or its authorized representative does not employ a person who has the expertise to perform a constructability review as described in subsection 2, the local government or its authorized representative must contract with an independent third party who is an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS to perform the constructability review. ~~*[Such an independent third party may not participate in the construction of the public work and is not liable for any recommendations that he may make in his constructability review.]*~~ ***A contract entered into pursuant to this section between a local government or its authorized representative and an independent third party is not required to be awarded by competitive bidding.***

Sec. 15. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive ~~[; or]~~ ***, and section 14 of this act;***

(c) NRS 338.1711 to 338.1727, inclusive ~~[.]~~ ***; or***

(d) Sections 2 to 12, inclusive, of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, ***and sections 2 to 12, inclusive, of this act,*** do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 16. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~[or]~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[.]~~ ***;***

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 17. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~[or]~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[.]~~ ***;***

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 18. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~[or]~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[.]~~ ***;***

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 19. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds $100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is $100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~[or]~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[.]~~ ***;***

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.

Sec. 20. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to 338.168, inclusive, ***and sections 2 to 12, inclusive, of this act,*** a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds $100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body

has approved the use of a design-build team for the design and construction of the public work and the public work:

(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or

(b) Has an estimated cost which exceeds $10,000,000.

Sec. 21. NRS 338.1717 is hereby amended to read as follows:

338.1717 A public body may employ a registered architect, ***general contractor, construction manager as agent,*** landscape architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect, ***general contractor, construction manager as agent,*** landscape architect or engineer so employed shall not:

1. Construct the public work; or

2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.

Sec. 22. 1. This section and sections 1 to 16, inclusive, 18, 20 and 21 of this act become effective on October 1, 2007.

2. Sections 16 and 18 of this act expire by limitation on April 30, 2013.

3. Sections 17 and 19 of this act become effective on May 1, 2013.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 202.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 890.

JOINT SPONSOR: ASSEMBLYMAN CARPENTER

AN ACT relating to domestic relations; codifying certain common law factors that a court must consider when determining alimony; revising the provisions governing the reporting of information concerning ~~[arrests for]~~ **investigations of** domestic violence; requiring the Director of the Department of Public Safety to submit an annual report concerning temporary and extended orders for protection against domestic violence to the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing case law in Nevada, a court determining whether alimony should be awarded and the appropriate amount of alimony is required to consider several relevant factors including: (1) the financial condition of the parties; (2) the nature and value of their respective property; (3) the contribution of each party to any property held by both parties as tenants by the entirety; (4) the duration of the marriage; and (5) the income, earning capacity, age and health of each party. (***Buchanan v. Buchanan***, 90 Nev. 209, 215 (1974)) Section 1 of this bill codifies those factors as well as factors

from subsequent case law so that a court must consider those factors when determining alimony. (***Buchanan***, 90 Nev. at 215; ***Sprenger v. Sprenger***, 110 Nev. 855, 859 (1994); ***Rodriguez v. Rodriguez***, 116 Nev. 993, 999 (2000))

Existing law sets forth provisions governing the reporting of information concerning investigations of domestic violence. (NRS 171.1227) Section 5 of this bill ~~[provides that the Director of the Department of Public Safety must prescribe the information that must be forwarded to the Central Repository for Nevada Records of Criminal History from records of arrests for domestic violence and must prescribe the manner for the forwarding of such information.]~~ **revises the manner in which information concerning an investigation of domestic violence must be forwarded to the Central Repository for Nevada Records of Criminal History. Section 5 also requires the Director of the Department of Public Safety to prescribe the form in which such information must be supplied and lists additional information that must be contained in the form.**

Section 6 of this bill requires the Director of the Department of Public Safety to submit a written report concerning the temporary and extended orders for protection against domestic violence issued in this State to the Director of the Legislative Counsel Bureau which includes the total number of temporary and extended orders granted, the number of grants of temporary custody that are included in such temporary and extended orders, the number of such orders that are issued to women and the number of such orders that are issued to men.

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

Section 1. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the

reimbursement of that party for his contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

(a) The intention of the parties in placing the property in joint tenancy;

(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➥ As used in this subsection, "contribution" includes ***, without limitation,*** a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue under the pleadings.

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed

circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

8. ***In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:***

(a) The financial condition of each spouse;

(b) The nature and value of the respective property of each spouse;

(c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;

(d) The duration of the marriage;

(e) The income, earning capacity, age and health of each spouse;

(f) The standard of living during the marriage;

(g) The career before the marriage of the spouse who would receive the alimony;

(h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;

(i) The contribution of either spouse as homemaker;

(j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and

(k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

9. In granting a divorce ***,*** the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

~~[9.]~~ ***10.*** If the court determines that alimony should be awarded pursuant to the provisions of subsection ~~[8.]~~ ***9:***

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his career; or

(III) Courses of training in skills desirable for employment.

~~[10.]~~ ***11.*** For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 171.1227 is hereby amended to read as follows:

171.1227 1. If a peace officer investigates an act that constitutes domestic violence pursuant to NRS 33.018, he shall prepare and submit a written report of his investigation to his supervisor or to another person designated by his supervisor, regardless of whether the peace officer makes an arrest.

2. If the peace officer investigates a mutual battery that constitutes domestic violence pursuant to NRS 33.018 and finds that one of the persons involved was the primary physical aggressor, he shall include in his report:

(a) The name of the person who was the primary physical aggressor; and

(b) A description of the evidence which supports his finding.

3. If the peace officer does not make an arrest, he shall include in his report the reason he did not do so.

4. ~~[A copy of]~~ ***The information*** ~~*[from the]*~~ ***contained in a*** report ~~*[that is required to be forwarded]*~~ ***made pursuant to*** ~~*[subsection 5]*~~ ***subsections 1 and 2*** must be ~~[forwarded immediately]~~ ***:***

(a) Aggregated each month; and

(b) Forwarded by each jurisdiction to the Central Repository for Nevada Records of Criminal History ~~[.]~~ ***not later than the 15th day of the following month.***

5. The Director of the Department of Public Safety shall prescribe ~~*[:*~~

~~*(a) The information from the report that must be forwarded to the Central Repository; and*~~

~~*(b) The manner in which the information must be forwarded to the Central Repository.]*~~ ***the form on which the information described in subsection 4 must be reported to the Central Repository. In addition to the information required pursuant to subsections 1 and 2, the form must also require the inclusion of the following information from each report:***

(a) The gender, age and race of the persons involved;

(b) The relationship of the persons involved;

(c) The date and time of day of the offense;

(d) The number of children present, if any, at the time of the offense;

(e) Whether or not an order for protection against domestic violence was in effect at the time of the offense;

(f) Whether or not any weapons were used during the commission of the offense;

(g) Whether or not any person required medical attention;

(h) Whether or not any person was given a domestic violence card that contains information about appropriate counseling or other supportive services available in the community in which that person resides;

(i) Whether or not the primary physical aggressor, if identified, was arrested and, if not, any mitigating circumstances explaining why an arrest was not made; and

(j) Whether or not any other person was arrested.

Sec. 6. NRS 179A.350 is hereby amended to read as follows:

179A.350 1. The Repository for Information Concerning Orders for Protection Against Domestic Violence is hereby created within the Central Repository.

2. Except as otherwise provided in subsection 4, the Repository for Information Concerning Orders for Protection Against Domestic Violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada, in accordance with regulations adopted by the Director of the Department, including, without limitation, any information received pursuant to NRS 33.095. Information received by the Central Repository pursuant to NRS 33.095 must be entered in the Repository for Information Concerning Orders for Protection Against Domestic Violence not later than 8 hours after it is received by the Central Repository.

3. The information in the Repository for Information Concerning Orders for Protection Against Domestic Violence must be accessible by computer at all times to each agency of criminal justice.

4. ***On or before February 15 of each year, the Director of the Department shall submit to the Director of the Legislative Counsel Bureau a written report concerning all temporary and extended orders for protection against domestic violence issued pursuant to NRS 33.020 during the previous calendar year that were transmitted to the Repository for Information Concerning Orders for Protection Against Domestic Violence. The report must include, without limitation, information for each court***

that issues temporary or extended orders for protection against domestic violence concerning:

(a) The total number of temporary and extended orders that were granted by the court pursuant to NRS 33.020 during the calendar year to which the report pertains;

(b) The number of temporary and extended orders that were granted to women;

(c) The number of temporary and extended orders that were granted to men;

(d) The number of temporary and extended orders that were vacated or expired;

(e) The number of temporary orders that included a grant of temporary custody of a minor child; and

(f) The number of temporary and extended orders that were served on the adverse party.

5. The information provided pursuant to subsection 4 must include only aggregate information for statistical purposes and must exclude any identifying information relating to a particular person.

6. The Repository for Information Concerning Orders for Protection Against Domestic Violence must not contain any information concerning an event that occurred before October 1, 1998.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 203 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 222.

Bill read second time.

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

Amendment No. 852.

AN ACT relating to water; creating the Nye County Water District; providing for the acquisition, storage, sale and distribution of water by the District; conferring other powers on the District; providing for the membership of the Governing Board of the District; setting forth the duties of the Board; authorizing the Board to levy and collect certain taxes; exempting the District from regulation by the Public Utilities Commission of Nevada; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Nevada State Legislature has enacted several laws that create water districts. For example, in 1947, the Legislature created the Las Vegas Valley Water District by a special act. (Chapter 164, Statutes of Nevada 1947, p. 534) In 2003, the Legislature created the Lincoln County Water District by a special act. (Chapter 474, Statutes of Nevada 2003, p. 2985) A water district is generally created to provide for the storage, conservation, distribution and sale of water within or outside of the district. (Chapter 100, Statutes of Nevada 1993, p. 159)

Sections 1-12 of this bill create the Nye County Water District by a special act similar to that which created the Lincoln County Water District.

Section 6 of this bill specifies that the jurisdiction and service area of the District consists of all the land within the boundaries of Nye County, Nevada.

Section 7 of this bill states that the powers, duties and privileges of the District must be exercised by the Governing Board of the District, and that the membership of the Board must consist of seven members appointed by the Board of County Commissioners of Nye County.

Section 8 of this bill sets forth an extensive list of powers conferred upon the District, including, without limitation: (1) the power to incur indebtedness and issue bonds; (2) the power to acquire land and water rights to carry out the purposes of the District; (3) the power to construct any work for the development, importation or distribution of the water of the District; and (4) the power to levy and collect taxes to assist in the operational expenses of the District.

Section 9 of this bill sets forth the duties of the Board, including, without limitation: (1) the duty to choose a Chairman and prescribe the powers and duties of the Chairman; (2) the duty to fix the principal place of business of the District; (3) the duty to appoint a General Manager; and (4) the duty to prescribe the powers, duties, compensation and benefits of all officers and employees of the District. Section 9 further states that, except as to the exercise of the power of eminent domain, the disposal of water rights, applications to the State Engineer for certain permits and the adoption and amendment of bylaws for which a supermajority vote of the Board is required, a simple majority of the members of the Board constitutes a quorum and a quorum may exercise all the powers and duties of the Board.

Section 10 of this bill authorizes the Board to levy and collect taxes on all taxable property within the District to make payment of principal and interest on its general obligations.

Section 11 of this bill exempts the District from regulation by the Public Utilities Commission of Nevada.

Section 13 of this bill requires the ~~[Commission]~~ **Board of County Commissioners** to stagger the initial terms of the members of the Governing Board of the District.

WHEREAS, Adequate and efficient water service is vital to the economic development and well-being of the residents of Nye County; and

WHEREAS, The well-being of the residents of Nye County, the long-term economic development of Nye County and the protection of the environment of Nye County could best be served by the creation of a single governmental entity, the purpose of which is to secure and develop sustainable sources of water; and

WHEREAS, The provisions of this act do not express any preference for whether water service is provided to the residents of Nye County by a governmental entity or by a private utility regulated by the Public Utilities Commission of Nevada; now, therefore,

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

Section 1. As used in sections 1 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 2. (Deleted by amendment.)

Sec. 3. "Board" means the Governing Board of the District.

Sec. 4. "Commission" means the Board of County Commissioners of Nye County.

Sec. 4.5. "District" means the Nye County Water District created pursuant to section 6 of this act.

Sec. 5. "Service area" means the service area of the District described in section 6 of this act.

Sec. 6. There is hereby created a political subdivision of this State to be known as the Nye County Water District. The jurisdiction and service area of the District are all that real property within the boundaries of Nye County, Nevada, as described in NRS 243.275 to 243.315, inclusive.

Sec. 7. 1. All powers, duties and privileges of the District must be exercised and performed by the Board.

2. The Board must be composed of the following seven members as appointed by the Commission:

(a) One member who is a resident of Beatty or the Amargosa area;

(b) One member who is a resident of the Tonopah area;

(c) Three members who are residents of the Pahrump Valley;

(d) One member who is a resident of the area in Nye County known as Currant Creek or the area known as Smoky Valley; and

(e) In addition to the members appointed pursuant to paragraphs (a), (b) and (d), one member who is a resident of an area in Nye County other than the Pahrump Valley.

3. A member of the Board or any person related to a member of the Board within the ~~[first]~~ **third** degree of consanguinity or affinity must not be affiliated with a private utility that is regulated by the Public Utilities Commission of Nevada.

4. Except as otherwise provided in subsection 5, after the initial terms, each member of the Board serves for a term of 2 years. A vacancy on the

Board must be filled in the same manner as the original appointment. A member may be reappointed.

5. Members of the Board serve at the pleasure of the Commission and may be recalled by a simple majority vote of all the members of the Commission.

Sec. 8. 1. The District has the following powers:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at the pleasure of the District.

(d) To enter into contracts, and employ and fix the compensation of staff and professional advisers.

(e) To incur indebtedness pursuant to chapters 271 and 318 of NRS and to issue bonds and provide for medium-term obligations pursuant to chapter 350 of NRS, to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 12, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.

(f) To acquire, by purchase, grant, gift, devise, lease, construction, contract or otherwise, lands, rights-of-way, easements, privileges, water and water rights, and property of every kind, whether real or personal, to construct, maintain and operate, within or without the District, all works and improvements necessary or proper to carry out any of the objects or purposes of sections 1 to 12, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by the District as authorized by sections 1 to 12, inclusive, of this act.

(g) To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including, without limitation, water and water rights, as is necessary or convenient to the full exercise of the powers of the District. Any sale, lease, encumbrance, hypothecation or other disposal of water rights pursuant to this paragraph must be first approved by a supermajority vote of the Board and a simple majority vote of all the members of the Commission.

(h) To develop and adopt, subject to approval by the Commission, ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District. All bylaws adopted or amended must also be approved by a supermajority vote of the members of the Board.

(i) Except as otherwise provided in this paragraph, to exercise the power of eminent domain in the manner prescribed by law, if the action is first approved by a supermajority vote of the Board and a simple majority vote of all the members of the Commission. The District may exercise the power of eminent domain within or without the service area, to take any property, including, without limitation, the property specified in paragraph (f) and any water or water right specified in paragraph (o), necessary for the exercise of the powers of the District or for the provision of adequate water service to the service area. The District shall not exercise the power of eminent domain to acquire any portion of water rights or waterworks facilities owned or used by a public utility that has been issued a certificate of public convenience and necessity pursuant to NRS 704.330 to provide water in a service area unless it also acquires all the real property, water rights, waterworks facilities, equipment and any other private property owned or used by the public utility in connection with providing a service regulated by the Public Utilities Commission of Nevada in a service territory located within or adjacent to the District.

(j) To enter upon any land, to make surveys and locate any necessary improvements, including, without limitation, lines for channels, conduits, canals, pipelines, roadways and other rights-of-way, to acquire property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of such improvements, including, without limitation, works constructed and being constructed by private owners, lands for reservoirs for the storage of necessary water, and all necessary appurtenances, and, where necessary and for the purposes and uses set forth in this section, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or other rights.

(k) To enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county or district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which may be lawfully acquired or owned by the District.

(l) To acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the District, and to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the District, or to carry such water through any tunnel, canal, ditch or conduit of the District.

(m) To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the District, or for the purpose of exchanging the water

or water right for any other water, water right or water supply to be delivered to the District by the other party to the agreement.

(n) To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the Government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the District, or to carry out any other works, acts or purposes provided for in sections 1 to 12, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 1 to 12, inclusive, of this act.

(o) To store water in surface or underground reservoirs within or without the District for the common benefit of the District, to conserve and reclaim water for present and future use within the District, to appropriate and acquire water and water rights and import water into the District for any useful purpose to the District, and to commence, maintain, intervene in and compromise in the name of the District, or otherwise, and assume the costs and expenses of any action or proceeding involving or affecting:

(1) The ownership or use of water or water rights within or without the District used or useful for any purpose of the District or of common benefit to any land situated therein. A supermajority vote of the Board and a simple majority vote of all the members of the Commission is required before the District may apply to the State Engineer for a permit to:

(I) Appropriate water where the point of diversion is within a hydrographic basin located in Nye County and the place of use is a location outside of the same hydrographic basin; or

(II) Change the place of use of water already appropriated from any point within a hydrographic basin located in Nye County to a location outside the same hydrographic basin.

(2) The wasteful use of water within the District.

(3) The interference with or diminution of water or water rights within the District.

(4) The contamination or pollution of the surface or subsurface water used in the District or any other act that otherwise renders such water unfit for beneficial use.

(5) The interference with this water that may endanger or damage the residents, lands or use of water in the District.

(p) To sell and distribute water under the control of the District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon

a finding by the Board that there is a surplus of water above that amount required to serve customers within the service area.

(q) To cause taxes to be levied and collected for the purposes prescribed in sections 1 to 12, inclusive, of this act, including, without limitation, the payment of any obligation of the District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, until such taxes are no longer required.

(r) To supplement the surface and groundwater resources of Nye County by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

(s) To restrict the use of water of the District during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of water of the District at any time through the adoption of ordinances, rules or regulations and the imposition of fines for violations of those ordinances, rules and regulations.

(t) To supply water under a contract or agreement, or in any other manner, to the United States or any department or agency thereof, the State of Nevada, Nye County, and any city, town, corporation, association, partnership or natural person situated in Nye County, for an appropriate charge, consideration or exchange made thereof, when such supply is available or can be developed as an incident of or in connection with the primary functions and operations of the District.

(u) To create assessment districts to extend mains, improve distribution systems and acquire presently operating private water companies and mutual water distribution systems.

(v) To accept from the Government of the United States or any of its agencies financial assistance or participation in the form of grants-in-aid or any other form in connection with any of the functions of the District.

(w) To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the District granted by sections 1 to 12, inclusive, of this act.

2. As used in this section, "supermajority" means an affirmative vote of not less than five of the seven members of the Board.

Sec. 9. 1. The Board shall:

(a) Choose one of its members to be Chairman, and prescribe the term of that office and the powers and duties thereof.

(b) Fix the time and place at which its regular meetings will be held and provide for the calling and conduct of special meetings.

(c) Fix the location of the principal place of business of the District.

(d) Elect a Secretary-Treasurer of the Board and the District, who may or may not be a member of the Board.

(e) Appoint a General Manager who must not be a member of the Board.

(f) Delegate and redelegate to officers of the District the power to employ necessary executives, clerical workers, engineering assistants and laborers,

and to retain legal, accounting or engineering services, subject to such conditions and restrictions as may be imposed by the Board.

(g) Prescribe the powers, duties, compensation and benefits of all officers and employees of the District, and require all bonds necessary to protect the money and property of the District.

(h) Take all actions and do all things reasonably and lawfully necessary to conduct the business of the District and achieve the purposes of sections 1 to 12, inclusive, of this act.

2. A simple majority of the members of the Board constitutes a quorum. Except as otherwise provided in section 8 of this act, a quorum may exercise all the power and authority conferred on the Board.

3. Any person who is aggrieved by any decision of the Board pursuant to sections 1 to 12, inclusive, of this act ~~[, other than a decision by the Board not to exercise the power of eminent domain,]~~ may appeal to the Commission within 30 days after the decision of the Board. The Commission may affirm, modify or reverse the decision of the Board.

4. Members of the Board are entitled to receive reasonable compensation and travel expenses, as set by the Commission, for their attendance at meetings and conduct of other business of the District.

Sec. 10. 1. The Board may levy and collect general ad valorem taxes on all taxable property within the District, but only for the payment of principal and interest on its general obligations. Such a levy and collection must be made in conjunction with Nye County in the manner prescribed in this section.

2. The Board shall determine the amount of money necessary to be raised by taxation for a particular year in addition to other sources of revenue of the District. The Board then shall fix a rate of levy which, when applied to the assessed valuation of all taxable property within the District, will produce an amount, when combined with other revenues of the District, sufficient to pay, when due, all principal of and interest on general obligations of the District and any defaults or deficiencies relating thereto.

3. In accordance with and in the same manner required by the law applicable to incorporated cities, the Board shall certify the rate of levy fixed pursuant to subsection 2 for levy upon all taxable property within the District in accordance with such rate at the time and in the manner required by law for levying of taxes for county purposes.

4. The proper officer or authority of Nye County, upon behalf of the District, shall levy and collect the tax for the District specified in subsection 3. Such a tax must be collected in the same manner, including, without limitation, interest and penalties, as other taxes collected by the County. When collected, the tax must be paid to the District in monthly installments for deposit in the appropriate depository of the District.

5. If the taxes levied are not paid, the property subject to the tax lien must be sold and the proceeds of the sale paid to the District in accordance with the law applicable to tax sales and redemptions.

Sec. 11. The District is exempt from regulation by the Public Utilities Commission of Nevada.

Sec. 12. If any provision of sections 1 to 12, inclusive, of this act or the application thereof to any person, thing or circumstance is held invalid, such invalidity does not affect the provisions or application of sections 1 to 12, inclusive, of this act that can be given effect without the invalid provision or application, and to this end the provisions of sections 1 to 12, inclusive, of this act are declared to be severable.

Sec. 13. As soon as practicable after July 1, 2007, the Board of County Commissioners of Nye County shall appoint the members of the Governing Board of the Nye County Water District created pursuant to section 6 of this act to initial terms as follows:

1. Three members to terms that expire on July 1, 2008; and
2. Four members to terms that expire on July 1, 2009.

Sec. 14. This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that Senate Bill No. 234 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 307.

Bill read second time.

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

Amendment No. 748.

AN ACT relating to purchasing; prohibiting the solicitation or provision of certain information before the award of purchasing contracts; imposing certain requirements on public officers and employees relating to inducements offered by bidders on such contracts; prohibiting the solicitation or acceptance of certain employment by certain contracting officials within a certain period after their employment or service is terminated; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, persons who have bid on a contract proposed to be awarded by a local government or by the Purchasing Division of the Department of Administration are prohibited from soliciting or obtaining proprietary information regarding the contract from officers or employees of the governmental entity on whose behalf the contract is being offered. (NRS 332.810, 333.800) Sections 2 and 4 of this bill expand this prohibition to include the soliciting or obtaining of information regarding another person’s

bid on the contract, unless such information is available to the general public. Section 5 of this bill prohibits officers and employees of the State or a local government from offering or providing to a bidder on a purchasing contract with the State or local government certain information before the award of the contract. Section 5 also requires those officers and employees to refuse inducements offered by bidders and to report such inducements to their immediate supervisors.

Under existing law, certain regulated businesses must observe a 1-year "cooling off" period before hiring certain former public officers and employees who were involved in regulating such a business. (NRS 281.236) Section 6 of this bill prohibits a former public officer or employee whose position allowed him to affect ~~[,]~~ **or** influence ~~[or otherwise provide input with respect to]~~ the awarding of a state or local governmental purchasing contract in an amount that exceeds $25,000 from soliciting or accepting employment from the person who was awarded the contract for a period of 1 year after the date of the award of the contract. Section 6 allows the Commission on Ethics to provide relief from the strict application of this rule under certain circumstances.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 332.810 is hereby amended to read as follows:

332.810 1. Before a contract is awarded, a person who has bid on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, an evaluator or member of the governing body offering the contract;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to an evaluator or member of the governing body offering the contract; or

(c) Solicit or obtain from an officer, employee or member of the governing body offering the contract ~~[, any]~~ ***:***

(1) Any proprietary information regarding the contract ~~[.]~~ ***; or***

(2) Any information regarding a bid on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not less than $2,000 nor more than $50,000, or by both fine and imprisonment.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 333.800 is hereby amended to read as follows:

333.800 1. Before a contract is awarded, a person who has provided a bid or proposal on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered; or

(c) Solicit or obtain ~~[any proprietary information regarding the contract]~~ from the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered ~~[.]~~ ***:***

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a bid or proposal on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not less than $2,000 nor more than $50,000, or by both fine and imprisonment.

Sec. 5. Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An officer or employee of the State or a local government who receives an offer or promise of future employment, a business opportunity, money, a gratuity or any other thing of value from a person who has provided a bid or proposal on a contract for supplies, materials, equipment or services to be awarded by the State or local government or from an officer, employee, representative, agent or consultant of such a person shall:

(a) Refuse the offer or promise; and

(b) Within 72 hours after receiving the offer or promise, report the occurrence to his immediate supervisor or, if he does not have an immediate supervisor, to the administrative head of the agency by which he is employed. The requirement to report such an offer or promise pursuant to this paragraph applies regardless of whether the offer or promise is subsequently withdrawn.

2. Before a contract for supplies, materials, equipment or services is awarded by the State or a local government, an officer or employee of the State or local government shall not offer or provide to a person who has bid on the contract:

(a) Any proprietary information regarding the contract; or

(b) Any information regarding a bid on the contract submitted by another person, unless such information is available to the general public.

3. An officer or employee of the State or a local government who violates the provisions of subsection 1 or 2 is subject to disciplinary action.

4. As used in this section:

(a) "Local government" means any political subdivision of the State, including, without limitation, a county, city, town, school district, general improvement district or other district.

(b) "State" means the State of Nevada or any board, commission, department or other agency or instrumentality thereof.

Sec. 6. NRS 281.236 is hereby amended to read as follows:

281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of ***State*** Government shall not, except as otherwise provided in subsection ~~[4,]~~ ***5,*** employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year ***,*** he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. ***A former public officer or employee of the State or a local government, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or a local government, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:***

(a) The amount of the contract exceeded $25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed him to affect ~~[,]~~ ***or influence*** ~~[or otherwise provide input with respect to]~~ ***the awarding of the contract.***

5. A public officer or employee may request ***that*** the Commission on Ethics ~~[to]~~ apply the relevant facts in his case to the provisions of subsection 3 ***or 4, as applicable,*** and determine whether relief from the strict application of ~~[the]~~ ***those*** provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection 3 ***or 4, as applicable,*** is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of State Government; and

(c) The code of ethical standards prescribed in NRS 281.481,

➥ it may issue an opinion to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is subject to judicial review.

~~[5.]~~ ***6.*** As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 374.

Bill read second time.

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

Amendment No. 749.

AN ACT relating to tax increment areas; authorizing the creation of tax increment areas by cooperative agreement between a city and the Board of Regents of the University of Nevada in certain circumstances; **changing the manner in which certain revenue limitations apply to securities issued for certain tax increment areas;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the creation of tax increment areas by the governing body of a county or city. (NRS 278C.150) The governing body may dedicate the revenues from the property tax imposed in a tax increment area to the financing, acquisition, improvement or equipment of certain specific undertakings, including a drainage and flood control project, overpass project, sewerage project, street project, underpass project or water project. (NRS 278C.140) Section 1 of this bill authorizes the creation of a tax increment area by cooperative agreement between a city and the Board of Regents of the University of Nevada in certain circumstances. Section 2 of this bill provides that for the purposes of a tax increment area created by such a cooperative agreement, in addition to other undertakings, an undertaking may include certain projects for infrastructure and capital projects for the principal campus of the Nevada State College.

Under existing law, the total revenue paid to a tax increment area is limited to 10 percent if the population of the applicable municipality is 100,000 or more and is limited to 15 percent if the population of the applicable municipality is less than 100,000. (NRS 278C.250) Section 3 of this bill provides that if a municipality issues securities for a tax increment area when the population of the municipality is less than 100,000, the municipality will receive the benefit of the higher 15-percent revenue limitation until such securities are paid in full, regardless of whether the population of the municipality reaches or exceeds 100,000 after such securities are issued.

Existing law provides that when real estate or a portion of real estate which is exempt from taxation is leased, loaned or otherwise made available to and used by a person or entity in connection with a business conducted for profit, or as a residence, that real estate is subject to a certain amount of taxation, except in certain circumstances, including when it involves property of any state-supported educational institution. (NRS 361.157) Section ~~[3]~~ **4** of this bill excludes from that exception any part of such property located within a tax increment area created pursuant to this bill.

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

Section 1. Chapter 278C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A tax increment area may be created pursuant to this section by a cooperative agreement between a city in which the principal campus of the Nevada State College is located or intended to be located and the Nevada System of Higher Education, if the boundaries of the tax increment area include only land:

(a) On which the principal campus of the Nevada State College is located or intended to be located; and

(b) Which:

(1) Consists of not more than 509 acres;

(2) Was transferred by the city creating the tax increment area to the Nevada System of Higher Education for the use of the Nevada State College;

(3) Has never been subject to property taxation; and

(4) The Nevada System of Higher Education has agreed to continue to own for the term of the tax increment area.

➥ The provisions of NRS 278C.160, subsections 4, 6 and 7 of NRS 278C.170, NRS 278C.220, paragraphs (c) and (d) of subsection 1 of NRS 278C.250 and paragraph (d) of subsection ~~[3]~~ 4 of NRS 278C.250 do not apply to a tax increment area created pursuant to this section, but such a tax increment area is subject to the provisions of subsections 2 to 9, inclusive.

2. Whenever the governing body of a city in which the principal campus of the Nevada State College is located or intended to be located and the Board of Regents of the University of Nevada determine that the interests of the city, the Nevada System of Higher Education and the public require an undertaking, the governing body and the Board of Regents may enter into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, which describes by reference to the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area, and which contains or refers to an exhibit filed with the clerk of the city and the Secretary of the Board of Regents which contains:

(a) A statement of the last finalized amount of the assessed valuation of the real property within the boundaries of the tax increment area, which boundaries must be in compliance with subsection 1, and a statement that, based upon the records of the county treasurer, no property taxes were collected on any of that property, or on any interest therein, during the most recent year for which those records are available; and

(b) A description of the tax increment area or its location, so that the various tracts of taxable real property and any taxable personal property may be identified and determined to be within or without the tax increment area, except that the description need not describe in complete detail each tract of real property proposed to be included within the tax increment area.

3. The governing body may, at any time after the effective date of a cooperative agreement entered into pursuant to this section, adopt a resolution that provisionally orders the undertakings and creation of the tax increment area.

4. The notice of the meeting required pursuant to subsection 3 of NRS 278C.170 must:

(a) Describe by reference the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area;

(b) Describe the last finalized amount of the assessed valuation of the real property within the boundaries of the tax increment area, and state that, based upon the records of the county treasurer, no property taxes were collected on any of that property, or on any interest therein, during the most recent year for which those records are available;

(c) Describe the tax increment area or its location, so that the various tracts of taxable real or personal property may be identified and determined to be within or without the tax increment area; and

(d) State the date, time and place of the meeting described in subsection 1 of NRS 278C.170.

5. If, after considering all properly submitted and relevant written and oral complaints, protests, objections and other relevant comments and after considering any other relevant material, the governing body determines

that the undertaking is in the public interest and defines that public interest, the governing body shall determine whether to proceed with the undertaking. If the governing body has ordered any modification to an undertaking and has determined to proceed, the governing body must consult with the Board of Regents to obtain its consent to the proposed modification. When the Board of Regents and the governing body are in agreement on the modification, if any, and a statement of the modification is filed with the clerk, if the governing body wants to proceed with the undertaking, the governing body shall adopt an ordinance in the same manner as any other ordinance:

(a) Overruling all complaints, protests and objections not otherwise acted upon;

(b) Ordering the undertaking;

(c) Describing the tax increment area to which the undertaking pertains; and

(d) Creating a tax increment account for the undertaking.

6. Money deposited in the tax increment account as described in paragraph (b) of subsection 1 of NRS 278C.250 may be used to pay the capital costs of the undertaking directly, in addition to being used to pay the bond requirements of loans, money advanced or indebtedness incurred to finance or refinance an undertaking, and may continue to be used for those purposes until the expiration of the tax increment area pursuant to NRS 278C.300.

7. The Board of Regents may pledge to any securities it issues under a delegation pursuant to subsection 8, or irrevocably dedicate to the city that will issue securities hereunder, any revenues of the Nevada System of Higher Education derived from the campus of the Nevada System of Higher Education whose boundaries are included in whole or in part in the tax increment area, other than revenues from state appropriations and from student fees, and subject to any covenants or restrictions in any instruments authorizing other securities. Such an irrevocable dedication must be for the term of the securities issued by the city and any securities refunding those securities and may also extend for the term of the tax increment area.

8. The city may delegate to the Board of Regents the authority to issue any security other than a general obligation security which the city is authorized to issue pursuant to this chapter, and in connection therewith, may irrevocably dedicate to the Board of Regents the revenues that are authorized pursuant to this chapter to be pledged or used to repay those securities, including, without limitation, all money in the tax increment account created pursuant to subsection 5. The irrevocable dedication of any security pursuant to this subsection must be for the term of the security issued by the Nevada System of Higher Education and any security refunding those securities and may also extend for the term of the tax increment area.

9. If the boundaries of a county school district include a tax increment area created pursuant to this section and the county school district operates a public school on property within the boundaries of that tax increment area, the county school district and the Nevada System of Higher Education shall consult with one another regarding funding for the operating costs of that public school.

Sec. 2. NRS 278C.140 is hereby amended to read as follows:

278C.140 "Undertaking" means any enterprise to acquire, improve or equip, or any combination thereof:

1. In the case of counties:

(a) A drainage and flood control project, as defined in NRS 244A.027;

(b) An overpass project, as defined in NRS 244A.037;

(c) A sewerage project, as defined in NRS 244A.0505;

(d) A street project, as defined in NRS 244A.053;

(e) An underpass project, as defined in NRS 244A.055; or

(f) A water project, as defined in NRS 244A.056.

2. In the case of cities:

(a) A drainage project or flood control project, as defined in NRS 268.682;

(b) An overpass project, as defined in NRS 268.700;

(c) A sewerage project, as defined in NRS 268.714;

(d) A street project, as defined in NRS 268.722;

(e) An underpass project, as defined in NRS 268.726; or

(f) A water project, as defined in NRS 268.728.

3. In the case of a city with respect to any tax increment area created pursuant to a cooperative agreement between the city and the Nevada System of Higher Education pursuant to section 1 of this act, in addition to the projects described in subsection 2:

(a) A project for any other infrastructure necessary or desirable for the principal campus of the Nevada State College that is approved by the Board of Regents of the University of Nevada; or

(b) An educational facility or other capital project for the principal campus of the Nevada State College that is owned by the Nevada System of Higher Education and approved by the Board of Regents of the University of Nevada.

Sec. 3. **NRS 278C.250 is hereby amended to read as follows:**

278C.250 1. After the effective date of the ordinance adopted pursuant to NRS 278C.220, any taxes levied upon taxable property in the tax increment area each year by or for the benefit of the State, the municipality and any public body must be divided as follows:

(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the tax increment area as shown upon the last equalized assessment roll used in connection with the taxation of the property by the taxing agency, must be

allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid.

(b) Except as otherwise provided in this section, the portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) must be allocated to, and when collected must be paid into, the tax increment account pertaining to the undertaking to pay the bond requirements of loans, money advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, incurred by the municipality to finance or refinance, in whole or in part, the undertaking. Unless the total assessed valuation of the taxable property in the tax increment area exceeds the total assessed value of the taxable property in the area as shown by the last equalized assessment roll referred to in this subsection, all of the taxes levied and collected upon the taxable property in the area must be paid into the funds of the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the tax increment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) The amount of the taxes levied each year which are paid into the tax increment account pursuant to paragraph (b) must be limited by the governing body to an amount not to exceed the combined total amount required for annual debt service of the project or projects acquired, improved or equipped, or any combination thereof, as part of the undertaking.

(d) Any revenues generated within the tax increment district in excess of the amount referenced in paragraph (c), if any, will be paid into the funds of the respective taxing agencies in the same proportion as their base amount was distributed.

2. ~~[In]~~ ***Except as otherwise provided in this subsection, in*** any fiscal year, the total revenue paid to a tax increment area in combination with the total revenue paid to any other tax increment areas and any redevelopment agencies of a municipality must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

➥ ***Notwithstanding the provisions of this subsection, if a municipality has a population of less than 100,000 at the time the municipality issues securities for a tax increment area pursuant to NRS 278C.280, the revenue limitation set forth in paragraph (b) must remain the revenue limitation for the tax increment area until such time as the securities issued for that tax increment area pursuant to NRS 278C.280 have been paid in full, including any securities issued to refund those securities, regardless of***

whether the population of the municipality reaches or exceeds 100,000 after the issuance of those securities.

3. If the revenue paid to a tax increment area must be limited pursuant to paragraph (a) or (b) ***of subsection 2*** and the municipality has more than one redevelopment agency or tax increment area, or one of each, the municipality shall determine the allocation to each agency and area. Any revenue that would be allocated to a tax increment area but for the provisions of this section must be paid into the funds of the respective taxing agencies.

~~[3.]~~ ***4.*** The portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) of subsection 1 which is attributable to any tax rate levied by a taxing agency:

(a) To produce revenue in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the debt service fund of that taxing agency.

(b) In excess of any tax rate of that taxing agency applicable to the last taxation of the property before the effective date of the ordinance, if that additional rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

(c) Pursuant to NRS 387.3285 or 387.3287, if that rate was approved by a majority of the registered voters within the area of the taxing agency voting upon the question, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

(d) For the support of the public schools within a county school district pursuant to NRS 387.195, must be allocated to, and when collected must be paid into, the appropriate fund of that taxing agency.

~~[4.]~~ ***5.*** The provisions of paragraph (a) of subsection ~~[3]~~ ***4*** include, without limitation, a tax rate approved for bonds of a county school district issued pursuant to NRS 350.020, including, without limitation, amounts necessary for a reserve account in the debt service fund.

~~[5.]~~ ***6.*** As used in this section, the term "last equalized assessment roll" means the assessment roll in existence on the 15th day of March immediately preceding the effective date of the ordinance.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,

➥ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution ~~[;]~~ ***, except any part of such property located within a tax increment area created pursuant to section 1 of this act;***

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by blind persons under the auspices of the Bureau of Services to the Blind and Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 394.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 831.

AN ACT relating to traffic laws; increasing the penalty for certain traffic violations; requiring certain persons to appear personally in court for traffic violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill increases the maximum term of imprisonment for refusal to stop a vehicle or to elude a peace officer when given a signal to stop which results in the death or bodily harm of another person from 15 years to 20 years and the fine from $10,000 to $50,000. (NRS 484.348) Section 7 also provides that if the driver of a motor vehicle is convicted of a violation of NRS 484.379 arising out of the same act or transaction as the refusal to stop a vehicle or to elude a peace officer when given a signal to stop, the driver is guilty of a category D felony for refusing to stop the vehicle or eluding a peace officer when given a signal to stop.

Section 8 of this bill establishes penalties for aggressive driving. (NRS 484.3765) ~~[Section 9 of this bill establishes penalties for reckless driving. (NRS 484.377) Section 9 also increases the penalty for reckless driving that results in the death or substantial bodily harm of another person from a term of imprisonment between 1 and 6 years, a fine, or both, to mandatory imprisonment and a fine of not less than $2,000.]~~

Existing law allows a person to comply with a written promise to appear in court by an appearance by counsel. (NRS 171.17885) Section 10 of this bill requires a person to appear personally to comply with a written promise if the written promise is a result of a third or subsequent arrest or citation for a moving traffic violation in unrelated incidents within a 12-month period.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[NRS 483.460 is hereby amended to read as follows:~~

~~483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:~~

~~(a) For a period of 3 years if the offense is:~~

~~(1) A violation of subsection~~ [2.] *3 of NRS* ~~484.377.~~

~~(2) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792.~~

~~(3) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955.~~

~~The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume upon completion of the period of imprisonment or when the person is placed on residential confinement.~~

~~(b) For a period of 1 year if the offense is:~~

~~(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484.3775, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.~~

~~(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.~~

~~(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, or pursuant to any other law relating to the ownership or driving of motor vehicles.~~

~~(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.~~

~~(5) A violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 and the driver is not eligible for a restricted license during any of that period.~~

~~(6) A violation of NRS 484.348.~~

~~(c) For a period of 90 days, if the offense is a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.~~

~~2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484.379 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.~~

~~3. When the Department is notified by a court that a person who has been convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 has been permitted to enter a program of treatment pursuant to NRS 484.37937, the Department shall reduce by one-half the period during which he is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that he was not accepted for or failed to complete the treatment.~~

~~4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484.3943 but who operates a motor vehicle without such a device:~~

~~(a) For 3 years, if it is his first such offense during the period of required use of the device.~~

~~(b) For 5 years, if it is his second such offense during the period of required use of the device.~~

~~5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.~~

~~6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064 or 206.330, chapter 484 of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.~~

~~7. As used in this section, "device" has the meaning ascribed to it in NRS 484.3941.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 483.490 is hereby amended to read as follows:~~

~~483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:~~

~~(a) To and from work or in the course of his work, or both; or~~

~~(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself or a member of his immediate family.~~

~~2. Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if he is issued a restricted license.~~

~~3. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484.3943:~~

~~(a) Shall install the device not later than 21 days after the date on which the order was issued; and~~

~~(b) May not receive a restricted license pursuant to this section until:~~

~~(1) After at least 1 year of the period during which he is not eligible for a license, if he was convicted of:~~

~~(I) A violation of NRS 484.3795 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or~~

~~(II) A violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792;~~

~~(2) After at least 180 days of the period during which he is not eligible for a license, if he was convicted of a violation of subsection [2] 3 of NRS 484.377; or~~

~~(3) After at least 45 days of the period during which he is not eligible for a license, if he was convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792.~~

~~3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484.3943, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.~~

~~4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:~~

~~(a) If applicable, to and from work or in the course of his work, or both; or~~

~~(b) If applicable, to and from school.~~

~~5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:~~

~~(a) If applicable, to and from work or in the course of his work, or both;~~

~~(b) To receive regularly scheduled medical care for himself or a member of his immediate family; or~~

~~(c) If applicable, as necessary to exercise a court ordered right to visit a child.~~

~~6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:~~

~~(a) A violation of NRS 484.379, 484.3795 or 484.384;~~

~~(b) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955; or~~

~~(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),~~

~~➥ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.~~

~~7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484.384 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.~~

~~8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.]~~ **(Deleted by amendment.)**

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 484.348 is hereby amended to read as follows:

484.348 1. Except as otherwise provided in this section, the driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a peace officer in a readily identifiable vehicle of any police department or regulatory agency, when given a signal to bring his vehicle to a stop is guilty of a misdemeanor.

2. The signal by the peace officer described in subsection 1 must be by flashing red lamp and siren.

3. Unless the provisions of NRS 484.377 apply if, while violating the provisions of subsection 1, the driver of the motor vehicle:

(a) Is the proximate cause of damage to the property of a person other than himself; or

(b) Operates the motor vehicle in a manner which endangers or is likely to endanger any person other than himself or the property of any person other than himself,

➥ the driver is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

4. If, while violating the provisions of subsection 1, the driver of the motor vehicle is the proximate cause of the death of or bodily harm to any person other than himself, the driver is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than ~~[15]~~ ***20*** years, or by a fine of not more than ~~[$10,000,]~~ ***$50,000,*** or by both fine and imprisonment.

5. If the driver of the motor vehicle is convicted of a violation of NRS 484.379 arising out of the same act or transaction as a violation of subsection 1, the driver is guilty of a category D felony and shall be punished as provided in NRS 193.130 for the violation of subsection 1.

Sec. 8. NRS 484.3765 is hereby amended to read as follows:

484.3765 1. A driver commits an offense of aggressive driving if, during any single, continuous period of driving within the course of 1 mile, the driver does all the following, in any sequence:

(a) Commits one or more acts of speeding in violation of NRS 484.361 or 484.366.

(b) Commits two or more of the following acts, in any combination, or commits any of the following acts more than once:

(1) Failing to obey an official traffic-control device in violation of NRS 484.278.

(2) Overtaking and passing another vehicle upon the right by driving off the paved portion of the highway in violation of NRS 484.297.

(3) Improper or unsafe driving upon a highway that has marked lanes for traffic in violation of NRS 484.305.

(4) Following another vehicle too closely in violation of NRS 484.307.

(5) Failing to yield the right-of-way in violation of any provision of NRS 484.315 to 484.323, inclusive.

(c) Creates an immediate hazard, regardless of its duration, to another vehicle or to another person, whether or not the other person is riding in or upon the vehicle of the driver or any other vehicle.

2. A driver may be prosecuted and convicted of an offense of aggressive driving in violation of subsection 1 whether or not the driver is prosecuted or convicted for committing any of the acts described in paragraphs (a) and (b) of subsection 1.

3. A driver who commits an offense of aggressive driving in violation of subsection 1 is guilty of a misdemeanor ~~[.]~~ ***and:***

(a) For the first offense, shall be punished:

(1) By a fine of not less than $250 but not more than $1,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

(1) By a fine of not less than $1,000 but not more than $1,500; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

(1) By a fine of not less than $1,500 but not more than $2,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

4. In addition to any other penalty ~~[.]~~ ***pursuant to subsection 3:***

(a) For the first offense within 2 years, the court shall order the driver to attend, at his own expense, a course of traffic safety approved by the Department and may issue an order suspending the driver's license of the driver for a period of not more than 30 days.

(b) For a second or subsequent offense within 2 years, the court shall issue an order revoking the driver's license of the driver for a period of 1 year.

~~[4.]~~ ***5.*** To determine whether the provisions of paragraph (a) or (b) of subsection ~~[3]~~ ***4*** apply to one or more offenses of aggressive driving, the court shall use the date on which each offense of aggressive driving was committed.

~~[5.]~~ ***6.*** If the driver is already the subject of any other order suspending or revoking his driver's license, the court shall order the additional period of suspension or revocation, as appropriate, to apply consecutively with the previous order.

~~[6.]~~ ***7.*** If the court issues an order suspending or revoking the driver's license of the driver pursuant to this section, the court shall require the driver to surrender to the court all driver's licenses then held by the driver. The court shall, within 5 days after issuing the order, forward the driver's licenses and a copy of the order to the Department.

~~[7.]~~ ***8.*** If the driver successfully completes a course of traffic safety ordered pursuant to this section, the Department shall cancel three demerit points from his driving record in accordance with NRS 483.448 or 483.475, as appropriate, unless the driver would not otherwise be entitled to have those demerit points cancelled pursuant to the provisions of that section.

~~[8.]~~ ***9.*** This section does not preclude the suspension or revocation of the driver's license of the driver, or the suspension of the future driving privileges of a person, pursuant to any other provision of law.

~~[9.]~~ ***10.*** A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in NRS 484.3667.

Sec. 9. ~~[NRS 484.377 is hereby amended to read as follows:~~

~~484.377 1. It is unlawful for a person to:~~

~~(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.~~

~~(b) Drive a vehicle in an unauthorized speed contest on a public highway.~~

~~2. A violation of this subsection or subsection 1 of NRS 484.348 constitutes reckless driving.~~

~~2. *Except as otherwise provided in subsection 3, a person who violates subsection 1 is guilty of a misdemeanor and:*~~

~~*(a) For the first offense, shall be punished:*~~

~~*(1) By a fine of not less than $250 but not more than $1,000; or*~~

~~*(2) By both fine and imprisonment in the county jail for not more than 6 months.*~~

~~*(b) For the second offense, shall be punished:*~~

~~*(1) By a fine of not less than $1,000 but not more than $1,500; or*~~

~~*(2) By both fine and imprisonment in the county jail for not more than 6 months.*~~

~~*(c) For the third and each subsequent offense, shall be punished:*~~

~~*(1) By a fine of not less than $1,500 but not more than $2,000; or*~~

~~*(2) By both fine and imprisonment in the county jail for not more than 6 months.*~~

~~*3. Unless a greater penalty is provided pursuant to subsection 4 of NRS 484.348, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to a person other*~~

~~than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years~~ [, or] ~~*and* by a fine of *not less than $2,000 and* not more than $5,000~~ . [, or by both fine and imprisonment.

~~3.] 4. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484.3667 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484.348.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 171.17785 is hereby amended to read as follows:

171.17785 1. It is unlawful for a person to violate his written promise to appear given to a peace officer upon the issuance of a misdemeanor citation prepared manually or electronically, regardless of the disposition of the charge for which the citation was originally issued.

2. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** person may comply with a written promise to appear in court by an appearance by counsel. ***A person who has been convicted of two or more moving traffic violations in unrelated incidents within a 12-month period and is subsequently arrested or issued a citation within that 12-month period shall appear personally in court with or without counsel.***

3. A warrant may issue upon a violation of a written promise to appear.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 487.

Bill read second time.

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

Amendment No. 893.

SUMMARY—Revises provisions relating to water resources in certain counties. (BDR ~~[48-183)]~~ **S-183)**

AN ACT relating to water; ~~[providing for the regional acquisition, development, management and conservation of water resources in certain portions of Washoe County; creating the Northern Nevada Water Authority; setting forth the powers and duties of the Authority; creating the Northern Nevada Water Planning Commission to advise and assist the Authority; repealing provisions relating to regional planning and management of water in certain counties;]~~ **creating an Advisory Subcommittee of the Washoe County Regional Water Planning Commission; requiring the Commission, in conjunction with the Subcommittee, to assess and examine certain matters pertaining to the availability and responsible use of water within Washoe County and to submit a report to the Legislature in connection therewith;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing general law provides for regional planning and management of water by a water planning commission in counties whose population is 100,000 or more but less than 400,000 (currently Washoe County). Under that general law, a board of county commissioners is required to adopt a comprehensive plan for the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods and is required to take action by a two-thirds majority. This general law also provides for a water planning commission, which reports to and advises the board of county commissioners concerning issues relating to water resources. (NRS 540A.010-540A.310)

~~[This bill repeals that general law and creates by special legislation a new structure for regional planning and management of water resources in certain portions of Washoe County based on the unique conditions and circumstances existing in those areas. Under the Nevada Constitution, the Legislature may pass a special or local law if the subject matter of the law does not fall within one of certain enumerated categories and a general law cannot be made applicable because of special circumstances and conditions. (Nev. Const. Art. 4, §§ 20, 21) Section 5 of this bill specifies the unique conditions and circumstances in these portions of Washoe County that justify special legislation for the purpose of regional planning and management of water resources.~~

~~Sections 23 and 24 28 of this bill create the Northern Nevada Water Authority, which is governed by a Board of Trustees consisting of representatives of Washoe County, the cities of Reno and Sparks and various public entities that provide services relating to water and wastewater in Washoe County. Sections 37-42 of this bill create the Northern Nevada Water Planning Commission, which reports to and advises the Board of Trustees of the Authority.~~

~~In lieu of creating the Northern Nevada Water Authority pursuant to section 23 of this bill, section 23.5 of this bill authorizes the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District and Truckee Meadows Water Authority to create the Northern Nevada Water Authority by cooperative agreement. The cooperative agreement must be entered into and become effective before January 1, 2008.~~

~~Sections 35-53 of this bill require the development and adoption of a comprehensive plan for the area over which the Authority has jurisdiction, which must address the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods. Sections 29-36 and 54-57 of this bill authorize the Board of Trustees to: (1) subject to certain exceptions, acquire and dispose of, in any manner, water rights, water supplies and related facilities; (2) schedule the delivery of water supplies held by certain water purveyors before January 1, 2008; (3) establish service territories of those purveyors for new water service provided on and after January 1, 2008; (4) establish, charge and collect various fees for services relating to the provision of water supplies;~~

~~(5) provide for water conservation by various means; (6) subject to certain exceptions, exercise the power of eminent domain as necessary to acquire private property; and (7) issue bonds and other obligations.~~

~~Section 61 of this bill creates a temporary statutory legislative committee to oversee the programs and activities of the Authority.]~~

Section 2 of this bill creates an Advisory Subcommittee of the Washoe County Regional Water Planning Commission. The Subcommittee consists of six members, including two Legislators appointed, respectively, by the Majority Leader of the Senate and the Speaker of the Assembly and four members of the general public who are appointed by the four purveyors of water in Washoe County: (1) the South Truckee Meadows General Improvement District; (2) the Sun Valley General Improvement District; (3) the Truckee Meadows Water Authority; and (4) Washoe County.

Section 3 of this bill requires the Commission, in conjunction with the Subcommittee, to make assessments, determinations and recommendations regarding several issues pertaining to the availability and responsible use of water within Washoe County.

Section 4 of this bill requires the Commission, in conjunction with the Subcommittee, to report on the activities carried out pursuant to section 3 and submit that report, accompanied by any recommendations for legislation, to the 75th Session of the Nevada Legislature.

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

Delete existing sections 1 through 62 of this bill and replace with the following new sections 1 through 6:

Section 1. **As used in sections 1 to 4, inclusive, of this act, unless the context otherwise requires:**

1. "Commission" means the Washoe County Regional Water Planning Commission.

2. "Purveyor of water" means:

(a) The South Truckee Meadows General Improvement District;

(b) The Sun Valley General Improvement District;

(c) The Truckee Meadows Water Authority; and

(d) Washoe County.

3. "Subcommittee" means the Advisory Subcommittee created pursuant to section 2 of this act.

Sec. 2. **1. There is hereby created an Advisory Subcommittee of the Washoe County Regional Water Planning Commission.**

2. The Subcommittee consists of six members as follows:

(a) One member of the Senate, appointed by the Majority Leader of the Senate;

(b) One member of the Assembly, appointed by the Speaker of the Assembly; and

(c) Four members of the general public who are consumers of water services, one appointed by each of the four purveyors of water.

3. The Commission shall provide the Subcommittee with any necessary staff and administrative support.

Sec. 3. **The Commission, in conjunction with the Subcommittee, shall:**

1. Assess conjunctive use by the purveyors of water to determine if those purveyors are maximizing conjunctive use and, if not, recommend ways in which maximized conjunctive use may be achieved. As used in this subsection, "conjunctive use" means the combined use of surface water and groundwater systems to optimize resource use.

2. Determine the amount of water required to accommodate the substantial completion of development of land as anticipated in the Truckee Meadows Regional Plan, and assess how much of that required amount of water is available within Washoe County.

3. If the amount of water required to accommodate the substantial completion of development of land as anticipated in the Truckee Meadows Regional Plan, as determined pursuant to subsection 2, is not available within Washoe County:

(a) Examine other potential locations from which additional water may be obtained; and

(b) Prepare a reasonably detailed estimate of the cost of obtaining that additional water from other locations.

4. Determine the extent to which there is a duplication of water facilities and recommend a course of action to eliminate or minimize such duplication.

5. Identify sources of funding to pay for the water required to accommodate the substantial completion of development of land as anticipated in the Truckee Meadows Regional Plan, including, without limitation, sources of funding to pay for:

(a) Water that is available within Washoe County; and

(b) Water that will need to be obtained from other locations.

6. Assess the adequacy of any water conservation plans developed or adopted by the purveyors of water and, if it is determined that those plans are inadequate, make recommendations as to the specific manner in which those plans may be improved.

Sec. 4. **On or before July 1, 2008, the Commission, in conjunction with the Subcommittee, shall prepare a written report of the matters considered and the actions taken pursuant to section 3 of this act and shall submit the report, accompanied by any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 75th Session of the Nevada Legislature.**

Sec. 5. **As soon as practicable after the effective date of this act, the Majority Leader of the Senate, the Speaker of the Assembly and the purveyors of water, as defined in section 1 of this act, shall appoint to the**

Advisory Subcommittee of the Washoe County Regional Water Planning Commission the members described in section 2 of this act.

Sec. 6. **This act becomes effective upon passage and approval and expires by limitation on June 30, 2009.**

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 497.

Bill read second time.

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

Amendment No. 783.

AN ACT relating to public facilities; authorizing the boards of county commissioners of certain larger counties to adopt procedures for the sale of the naming rights to a shooting range owned by the county; **requiring boards of county commissioners that sell naming rights relating to a shooting range to create an enterprise fund for the shooting range;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, boards of county commissioners are authorized to acquire parcels of land for park, recreational, cultural and memorial purposes and to operate, maintain and improve parks and other recreational and cultural facilities and areas owned by the county. (NRS 244.300-244.3091) Section 2 of this bill authorizes a board of county commissioners in a county whose population is 400,000 or more (currently Clark County) to adopt by ordinance procedures for the sale of the naming rights to a shooting range owned by the county. **Section 2 also requires a board of county commissioners that sells the naming rights relating to a shooting range to create an enterprise fund for proceeds from the shooting range and from the sale of the naming rights. Money in the fund may be used only to pay expenses directly related to the shooting range.**

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in a county whose population is 400,000 or more may adopt, by ordinance, procedures for the sale of ~~*[the]*~~ ***naming rights relating to a shooting range that is owned by the county*** ~~*[.]*~~ ***, including, without limitation, the sale of naming rights to:***

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the shooting range; and

(b) Activities, events and programs held at the shooting range.

2. If the board of county commissioners sells naming rights in accordance with the procedures adopted pursuant to subsection 1, the board shall create an enterprise fund exclusively for the proceeds of the sale of all such naming rights, for fees or charges for use of the shooting range and for any gifts, grants, donations, bequests, devises or money from any other source received for the shooting range. Any interest or other income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. Money that remains in the fund at the end of a fiscal year does not revert to the county general fund and the balance in the fund must be carried forward to the next fiscal year. The money in the fund may only be used to pay for expenses directly related to the shooting range.

Sec. 3. This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 498.

Bill read second time.

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

Amendment No. 854.

SUMMARY—Revises the authority of ~~[the Virgin Valley Water District]~~ **certain water and improvement districts** to borrow money and incur indebtedness. (BDR ~~[S-964)]~~ **25-964)**

AN ACT relating to ~~[water]~~ **special** districts; **revising the authority of certain local improvement districts to borrow money and incur indebtedness;** revising the authority of the Virgin Valley Water District to borrow money and incur indebtedness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Pursuant to the Nevada Improvement District Act (Chapter 309 of NRS), local improvement districts organized under the provisions of that Act on or before May 1, 1967, may incur general obligation indebtedness for the acquisition, construction, installation or completion of works or other improvements or facilities. (NRS 309.331-309.339) Sections 1-6 of this bill allow the board of such a district, in issuing general obligation bonds or other general obligation securities, to opt to carry out such activities pursuant to NRS 350.020 to 350.070, inclusive, instead of pursuant to the applicable provisions of chapter 309 of NRS.

Existing law provides that, in the event of a conflict between the provisions of NRS 309.332 to 309.339, inclusive, and the provisions of the Local Government Securities Law (NRS 350.500-350.720), the provisions of NRS 309.332 to 309.339, inclusive, control. (NRS 309.337) Section 7 of

this bill provides instead that, in the event of such a conflict, the provisions of the Local Government Securities Law control.

Under existing law, the Virgin Valley Water District is authorized to incur indebtedness, issue bonds and provide for medium-term obligations to carry out its powers. (Chapter 100, Statutes of Nevada 1993, p. 160, as last amended by chapter 203, Statutes of Nevada 1997, p. 560) ~~[This bill expands and clarifies]~~ **Sections 8 and 9 of this bill expand and clarify** that authority to allow the District to borrow money and incur indebtedness in any manner permitted by law for such a district and, subject to monitoring and oversight by the Clark County Debt Management Commission, to issue and retire bonds, warrants, notes and other securities in the same manner as a municipality. This bill also clarifies the authority of the District to provide for medium-term obligations and installment-purchase agreements in accordance with current statutes.

Under existing law, the Virgin Valley Water District is required to hold an election before incurring any general obligations. ~~[This bill specifies]~~ **Sections 8 and 9 of this bill specify** various types of securities which may be issued by the District without an election, including a general obligation only if the payment of that obligation is additionally secured by a pledge of and lien on the revenues of the District.

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

Section 1. **Chapter 309 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the board of a district organized pursuant to the provisions of this chapter proposes to issue general obligation bonds or other general obligation securities that are payable from general ad valorem taxes, the board may do so, at its option, pursuant to:

(a) NRS 309.332 to 309.339, inclusive; or

(b) NRS 350.020 to 350.070, inclusive.

2. If the board of a district organized pursuant to the provisions of this chapter elects to exercise the option described in paragraph (b) of subsection 1:

(a) The general obligation bonds or other general obligation securities must be secured additionally by a pledge of and lien on net revenues;

(b) The general obligation bonds or other general obligation securities must be issued in compliance with NRS 350.020 to 350.070, inclusive; and

(c) The provisions of NRS 309.333 to 309.336, inclusive, do not apply to the issuance or authorization of those general obligation bonds or other general obligation securities.

Sec. 2. **NRS 309.331 is hereby amended to read as follows:**

309.331 ***1.*** Any district heretofore or hereafter organized pursuant to the provisions of this chapter ~~[shall have]~~ ***has*** the power to borrow money either as a general obligation of the district or as a special obligation of the

district, to evidence the same and to apply the proceeds thereof as hereinafter provided in NRS 309.332 to 309.339, inclusive. NRS 309.332 to 309.339, inclusive, without reference to other parts of this chapter**,** ~~[(]~~ except as otherwise expressly provided in NRS 309.332 to 309.339, inclusive**,** ~~[), shall]~~ constitute full authority for the exercise of the powers therein granted and shall be deemed to constitute a mode of financing and making improvements additional to and separate from all other methods and procedures. Without limiting the generality of the foregoing, such financing ~~[shall]~~ ***must*** take place without adherence to the following provisions: NRS 309.050 to 309.110, inclusive**,** ~~[,]~~ subsection 3 of NRS 309.130~~[,]~~ and NRS 309.170 to 309.330, inclusive.

2. The provisions of this section do not prohibit the board of a district organized pursuant to the provisions of this chapter from exercising the option to issue general obligation bonds or other general obligation securities in accordance with NRS 350.020 to 350.070, inclusive, as described in section 1 of this act.

Sec. 3. **NRS 309.333 is hereby amended to read as follows:**

309.333 ***Except as otherwise provided in section 1 of this act:***

1. Whenever any board determines, by resolution, that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, to carry out the objects or purposes hereof, requiring the creation of a general obligation indebtedness of $5,000 or more, the board shall submit the proposition of issuing general obligation bonds to the electors of the district at an election held for that purpose or at the next district election or primary state election.

2. As used in this section, "elector" means any person entitled to vote as described in NRS 309.110 and includes a person who is obligated to pay general taxes under a contract to purchase real property within the district. Registration pursuant to the general election ~~[(]~~ ***statutes*** or any other~~[)]~~ statutes is not required. Residence in the county is not required. The election officials may in their discretion require the execution of voter affidavits in determining qualifications to vote at such bond elections.

3. Any such election may be held separately, or may be consolidated or held concurrently with any other election authorized by this chapter.

4. There must be no absentee voting at any such election.

5. The resolution required by subsection 1 must include:

(a) A declaration of public interest or necessity;

(b) The objects and purposes for which the indebtedness is proposed to be incurred;

(c) The estimated cost of the works or improvements, including interest on the general obligation bonds for ***a period*** not exceeding 12 months after their date and including the total of all estimated expenses incidental to their issuance;

(d) The amount of principal of the indebtedness to be incurred therefor;

(e) The maximum rate of interest to be paid on the indebtedness; and

(f) The date of the special election or the next district election or primary state election at which the proposition of issuing general obligation bonds will be submitted to the electors of the district.

Sec. 4. **NRS 309.334 is hereby amended to read as follows:**

309.334 ~~[The]~~ ***Except as otherwise provided in section 1 of this act, the*** board shall prescribe the form of the notice of election, and direct the publication of the same for 3 weeks, the first of the three publications of ~~[the notice to]~~ ***which must*** be not less than 20 days ~~[prior to]~~ ***before*** the election.

Sec. 5. **NRS 309.335 is hereby amended to read as follows:**

309.335 ~~[At]~~ ***Except as otherwise provided in section 1 of this act, at*** any regular or special meeting of the board held within 5 days following the date of such election, the returns thereof ~~[shall]~~ ***must*** be canvassed and the results thereof declared.

Sec. 6. **NRS 309.336 is hereby amended to read as follows:**

309.336 ***Except as otherwise provided in section 1 of this act:***

1. If it appears from the returns that a majority of the electors of the district who have voted on any proposition submitted pursuant to the provisions of NRS 309.332 to 309.339, inclusive, at the election voted in favor of the proposition, the district may issue and sell general obligation bonds of the district for the purpose or purposes and object or objects provided for in the proposition submitted and in the resolution therefor, and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in the resolution.

2. Submission of the proposition of incurring the general obligation indebtedness at a special election, district election or primary state election does not prohibit the submission of the same proposition or other propositions at a subsequent special election, district election or primary state election.

Sec. 7. **NRS 309.337 is hereby amended to read as follows:**

309.337 The provisions of the Local Government Securities Law apply to any securities authorized to be issued under NRS 309.332 to 309.339, inclusive, ~~[but]~~ ***and*** in the event of conflict **,** the provisions of ~~[NRS 309.332 to 309.339, inclusive,]~~ ***the Local Government Securities Law*** control.

~~[Section 1.]~~ ***Sec. 8.*** The Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 159, is hereby amended by adding thereto a new section to be designated as section 10.5, immediately following section 10, to read as follows:

Sec. 10.5. 1. The District may, subject to the provisions of NRS 350.011 to 350.0165, inclusive:

(a) Issue and retire bonds, warrants, notes and other securities, as if the District was a municipality, in accordance with and by the exercise of the powers conferred by:

(1) Chapter 271 of NRS;

(2) NRS 350.020 to 350.070, inclusive;

(3) NRS 350.350 to 350.490, inclusive;

(4) NRS 350.500 to 350.720, inclusive; and

(5) Any other applicable law;

(b) Provide for medium-term obligations and installment-purchase agreements in accordance with and by the exercise of the powers conferred by NRS 350.087 to 350.095, inclusive; and

(c) Conduct any transaction described in NRS 350.800, as if the District was a municipality, in accordance with and by the exercise of the powers conferred by that section,

➥ *to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in section 3 of this act.*

2. For the purposes of:

(a) NRS 350.011 to 350.0165, inclusive, the District shall be deemed to be a municipality within the meaning of those provisions.

(b) NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is:

(1) Payable solely from pledged revenues;

(2) A general obligation payable from general ad valorem taxes, the payment of which obligation is additionally secured by a pledge of and lien on designated revenues;

(3) A medium-term obligation; or

(4) Any combination of the obligations described in subparagraphs (1), (2) and (3),

➥ *but an election must be held before incurring a general obligation payable solely from general ad valorem taxes.*

~~[Sec. 2.]~~ ***Sec. 9.*** Section 3 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, as last amended by chapter 203, Statutes of Nevada 1997, at page 560, is hereby amended to read as follows:

Sec. 3. The District has the following powers:

1. To have perpetual succession.

2. To sue and be sued in the name of the District in all courts or tribunals of competent jurisdiction.

3. To adopt a seal and alter it at the District's pleasure.

4. To enter into contracts, and employ and fix the compensation of staff and professional advisers.

5. To ***borrow money and*** incur indebtedness ~~[pursuant to chapter 271 of NRS, issue bonds pursuant to chapter 350 of NRS and provide for medium-term obligations pursuant to chapter 350 of NRS to pay, in whole or in part, the costs of acquiring, constructing and operating any lands, easements,~~

~~water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 15, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.572, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.]~~ ***to the extent permitted by law.***

6. To acquire, by purchase, grant, gift, devise, lease, construction, contract or otherwise, lands, rights-of-way, easements, privileges, water and water rights, and property of every kind, whether real or personal, to construct, maintain and operate, within or without the District, any and all works and improvements necessary or proper to carry out any of the objects or purposes of sections 1 to 15, inclusive, of this act, and to complete, extend, add to, repair or otherwise improve any works, improvements or property acquired by it as authorized by sections 1 to 15, inclusive, of this act.

7. To sell, lease, encumber, hypothecate or otherwise dispose of property, whether real or personal, including water and water rights, as is necessary or convenient to the full exercise of the district's powers.

8. To adopt ordinances, rules, regulations and bylaws necessary for the exercise of the powers and conduct of the affairs of the Board and District.

9. Except as otherwise provided in this subsection, to exercise the power of eminent domain in the manner prescribed by law, within or without the service area of the District, to take any property, including, without limitation, the property specified in subsections 6 and 15, necessary or convenient for the exercise of the powers of the District or for the provision of adequate water service to the service area. The District shall not exercise the power of eminent domain to acquire the water rights or waterworks facilities of any nonprofit purveyor delivering water for domestic use whose service area is adjacent to the district without first obtaining the consent of the purveyor.

10. To enter upon any land, to make surveys and locate any necessary improvements, including, without limitation, lines for channels, conduits, canals, pipelines, roadways and other rights-of-way, to acquire property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of such improvements, including works constructed and being constructed by private owners, lands for reservoirs for the storage of necessary water, and all necessary appurtenances, and, where necessary and for the purposes and uses set forth in this section, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or other rights.

11. To enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county or district of any kind, public or private corporation, association, firm or natural person, or

any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which may be lawfully acquired or owned by the District.

12. To acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the District, and to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the District, or to carry such water through any tunnel, canal, ditch or conduit of the District.

13. To enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or natural person, or any number of them, for the transfer or delivery to any district, corporation, association, firm or natural person of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the District, or for the purpose of exchanging the water or water right for any other water, water right or water supply to be delivered to the district by the other party to the agreement.

14. To cooperate and act in conjunction with the State of Nevada or any of its engineers, officers, boards, commissions, departments or agencies, with the government of the United States or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, to construct any work for the development, importation or distribution of water of the District, for the protection of life or property therein, or for the conservation of its water for beneficial use within the district, or to carry out any other works, acts or purposes provided for in sections 1 to 15, inclusive, of this act, and to adopt and carry out any definite plan or system of work for any of the purposes described in sections 1 to 15, inclusive, of this act.

15. To store water in surface or underground reservoirs within or without the District for the common benefit of the District, to conserve and reclaim water for present and future use within the District, to appropriate and acquire water and water rights and import water into the District for any useful purpose to the District, and to commence, maintain, intervene in and compromise in the name of the District, or otherwise, and assume the costs and expenses of any action or proceeding involving or affecting:

(a) The ownership or use of water or water rights within or without the District used or useful for any purpose of the District or of common benefit to any land situated therein;

(b) The wasteful use of water within the District;

(c) The interference with or diminution of water or water rights within the District;

(d) The contamination or pollution of the surface or subsurface water used in the District or any other act that otherwise renders such water unfit for beneficial use; and

(e) The interference with this water that may endanger or damage the residents, lands or use of water in the District.

16. To sell and distribute water under the control of the District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the board that there is a surplus of water above that amount required to serve customers within the service area.

17. To cause taxes to be levied and collected for the purposes prescribed in sections 1 to 15, inclusive, of this act, including the payment of any obligation of the District during its organizational state and thereafter, and necessary engineering costs, and to assist in the operational expenses of the District, until such taxes are no longer required.

18. To supplement the surface and groundwater resources of Virgin Valley by the importation and use of water from other sources for industrial, irrigation, municipal and domestic uses.

19. To restrict the use of district water during any emergency caused by drought or other threatened or existing water shortage, and to prohibit the waste of district water at any time through the adoption of ordinances, rules or regulations and the imposition of fines for violations of those ordinances, rules and regulations.

20. To annex area into the District in the manner prescribed for cities in chapter 268 of NRS.

21. To supply water under contract or agreement, or in any other manner, to the United States or any department or agency thereof, the State of Nevada, Clark County, Nevada, and any city, town, corporation, association, partnership or natural person situated in Clark County, Nevada, and to deliver water to those users in Mohave County, Arizona, who are located in the Virgin Valley in accordance with the provisions of NRS 533.515 and 533.520, for an appropriate charge, consideration or exchange made therefor, when such supply is available or can be developed as an incident of or in connection with the primary functions and operations of the District.

22. To create assessment districts to extend mains, improve distribution systems and acquire presently operating private water companies and mutual water distribution systems.

23. To accept from the Government of the United States or any of its agencies financial assistance or participation in the form of grants-in-aid or any other form in connection with any of the functions of the District.

24. To assume the obligations of the Bunkerville Water User's Association, a nonprofit corporation, in providing water service to users in the District's service area.

25. To assume the obligations of the Mesquite Farmstead Water Association, a nonprofit corporation, in providing water service to users in the District's service area and in its certificated service area in Mohave

County, Arizona, pursuant to the certificate of public convenience and necessity granted to the Mesquite Farmstead Water Association by the State of Arizona.

26. To conduct business in Mohave County, Arizona, upon qualifying to do so pursuant to the laws of that state.

27. To do all acts and things reasonably implied from and necessary for the full exercise of all powers of the district granted by sections 1 to 15, inclusive, of this act.

~~[Sec. 3.]~~ ***Sec. 10.*** This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 509.

Bill read second time.

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

Amendment No. 853.

SUMMARY—Makes various changes to provisions relating to state financial administration **,** ~~[and]~~ the acquisition of property ~~[.]~~ **and the construction of public works.** (BDR 31-424)

AN ACT relating to state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; **clarifying the application to certain projects of provisions requiring the payment of prevailing wages on public works;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) Section 2 of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. Section 3 of this bill specifies the requirements for such an advertisement. Section 2 also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring the construction of a building on property which is owned by the State, the agency must contract with a design-build team for the design and construction of the building.

Existing law provides the requirements for lease-purchase and installment-purchase agreements which extend beyond the biennium in which the agreements are executed. Any such agreement must prohibit certificates of participation unless the State Board of Finance waives the prohibition. (NRS

353.550) Section 5 of this bill provides that if the Board waives the prohibition, the agreement does not have to include: (1) the rate of interest to be paid under the agreement; (2) the dates on which and prices at which the prepayments may be made under the agreement; (3) the amount to be received from the sale of the agreement or interests therein; and (4) the principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

Existing law provides that if a lease-purchase or installment-purchase agreement involves an improvement to property owned by the State, the State Land Registrar may enter into a lease of the property to which the improvement will be made if the lease has a term of 35 years or less and the lease provides for rental payments that approximate the fair market rental of the property before the improvement is made. (NRS 353.600) Section 8 of this bill provides that any such lease is exempt from certain provisions in existing law governing the lease of state land that require certain appraisals and the acceptance of sealed bids followed by oral offers.

Existing law authorizes the issuance and prescribes the terms of evidence of certain installment-purchase agreements. (NRS 350.091) Section 9 of this bill provides that certain installment-purchase agreements involving the construction, alteration, repair or remodeling of an improvement need not contain certain details and certain leases thereunder need not comply with certain statutes, but prevailing wage requirements (NRS 338.013-338.090) apply to the construction, alteration, repair or remodeling.

Under existing law, the Nevada Supreme Court has held that even where a statute states specifically that the prevailing wage must be paid pursuant to NRS 338.010 to 338.090, inclusive, prevailing wages need not be paid if the project at issue does not fit the definition of a "public work" and does not involve a "public body." (*Carson-Tahoe Hosp. v. Bldg. & Constr. Trades Council of Northern Nevada*, 122 Nev. Adv. Op. 19 (2006)) Section 12 of this bill sets forth that if a statute or local or special act provides that a project is subject to the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS 338.020 to 338.090, inclusive," the statute or local or special act must be construed as requiring the provisions of NRS 338.010 to 338.090, inclusive, to apply to the project in the same manner as those provisions apply to a "public work," except that the project will be deemed to be a "public work" solely for the application of those prevailing wage provisions. Section 13 of this bill amends the definition of "public work" to include any project for which a "public body": (1) provides property for development at less than the fair market value of the property; or (2) provides to a developer financial incentives having a value of more than $100,000.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***Before a state agency enters into an agreement:***

1. If, pursuant to the terms of the agreement:

(a) The state agency will acquire an existing building that is located on property which is not owned by the State; or

(b) The state agency will construct a building that will be located on property which is not owned by the State,

➥ *the state agency shall advertise for proposals in the manner set forth in section 3 of this act.*

2. If, pursuant to the terms of the agreement, the state agency will construct a building that will be located on property which is owned by the State, the state agency shall contract with a design-build team for the design and construction of the building in accordance with NRS 338.1711 to 338.1727, inclusive, regardless of the estimated cost of the building.

Sec. 3. ***1. A state agency that is required to advertise for proposals pursuant to section 2 of this act shall advertise for proposals in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county in which the building is or will be located. If no qualified newspaper is published in the county, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.***

2. A request for proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the building, including, without limitation, its size and location;

(b) An estimate of the cost of the building;

(c) If the proposal is for the construction of a building:

(1) The date on which it is anticipated that the state agency will begin construction of the building;

(2) The date by which proposals must be submitted to the state agency; and

(3) A statement setting forth that the contractor who will construct the building must be licensed pursuant to chapter 624 of NRS; and

(d) Any other information that the state agency determines to be necessary.

3. Nothing in this section shall be construed to require a state agency to enter into an agreement with any person who submits a proposal to the state agency.

Sec. 4. NRS 353.500 is hereby amended to read as follows:

353.500 As used in NRS 353.500 to 353.630, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 353.510 to 353.540, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 353.550 is hereby amended to read as follows:

353.550 1. A state agency may propose a project to acquire real property, an interest in real property or an improvement to real property through an agreement which has a term, including the terms of any options for renewal, that extends beyond the biennium in which the agreement is executed if the agreement:

(a) Provides that all obligations of the State of Nevada and the state agency are extinguished by the failure of the Legislature to appropriate money for the ensuing fiscal year for payments due pursuant to the agreement;

(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer and the State Land Registrar for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

4. If the provisions of paragraph (d) of subsection 1 are waived as provided in subsection 2, the agreement proposed pursuant to subsection 1, and the proposed agreement submitted pursuant to paragraph (b) of subsection 3 and approved pursuant to paragraph (c) of subsection 3, need not contain the following details if the Board, before the execution of the agreement by the Governor pursuant to paragraph (d) of subsection 3, delegates to the State Treasurer or his designee the authority to make a

binding agreement, subject to paragraphs (a), (b), (c) and (e) of subsection 1:

(a) The rate of interest to be paid under the agreement;

(b) The dates on which and prices at which the prepayments may be made under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

5. All terms of the agreement other than:

(a) The rate of interest to be paid under the agreement;

(b) The dates and prices for the prepayments of amounts under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year,

➥ *must be approved by the Board before the agreement is executed by the Governor.*

6. The final rate of interest, dates and prices of prepayments, price for the sale of the agreement or interests therein, principal amount and requirements for the principal amounts to be repaid in any year are not required to be approved by the Board if each of those terms complies with the requirements specified by the Board before the agreement is executed by the Governor.

Sec. 6. NRS 353.580 is hereby amended to read as follows:

353.580 ~~[An]~~ ***Except as otherwise provided in sections 2 and 3 of this act, an*** agreement entered into pursuant to NRS 353.500 to 353.630, inclusive, ***and sections 2 and 3 of this act*** is not subject to any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts.

Sec. 7. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, ***and sections 2 and 3 of this act*** involves the construction, alteration, repair or remodeling of an improvement:

1. The construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) ~~[Any]~~ ***Except as otherwise provided in sections 2 and 3 of this act, any*** law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 8. NRS 353.600 is hereby amended to read as follows:

353.600 1. Except as otherwise provided in this section, if an agreement pursuant to NRS 353.500 to 353.630, inclusive, ***and sections 2 and 3 of this act*** involves an improvement to property owned by the State of Nevada or the state agency, the State Land Registrar, in consultation with the State Treasurer and in conjunction with the agreement, upon approval of the State Board of Examiners may enter into a lease of the property to which the improvement will be made if the lease:

(a) Has a term of 35 years or less; and

(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the State Land Registrar in consultation with the State Treasurer at the time the lease is entered into, which must be paid if the agreement terminates before the expiration of the lease because the Legislature fails to appropriate money for payments due pursuant to the agreement.

2. A lease entered into pursuant to this section may provide for nominal rental payments to be paid pursuant to the lease before the agreement terminates.

3. Before the State Land Registrar may enter into a lease pursuant to this section:

(a) The State Land Registrar must submit the proposed lease to the Chief and the State Treasurer for their review and transmittal to the Board; and

(b) The Board must approve the lease.

4. Any lease of state land under this section is exempt from the requirements of NRS 321.007 and 321.335.

Sec. 9. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065 ***,*** ~~[or]~~ 322.075 ~~[,]~~ ***or 353.600,*** except as otherwise required by federal law and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) Obtain two independent appraisals of the land before selling or leasing it. The appraisals must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

Sec. 10. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065 **,** ~~[or]~~ 322.075 ~~[,]~~ ***or 353.600,*** except as otherwise required by federal law and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall cause it to be appraised by competent appraisers selected pursuant to NRS 321.007.

4. After receipt of the report of the appraisers, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

(a) A description of the land to be sold or leased;

(b) A statement of the terms of sale or lease;

(c) A statement that the land will be sold pursuant to subsection 6; and

(d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if he deems the bid or offer to be:

(a) Contrary to the public interest.

(b) For a lesser amount than is reasonable for the land involved.

(c) On lands which it may be more beneficial for the State to reserve.

(d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title,

zoning or an ordinance governing the use of the land, the State Land Registrar must obtain a new appraisal of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 11. NRS 322.060 is hereby amended to read as follows:

322.060 ~~[Subject]~~ ***Except as otherwise provided in NRS 353.600, subject*** to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.063, 322.065 and 322.067, for such term and consideration as the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

Sec. 12. **Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:**

A statute, local or special act or any other law that contains a reference stating that the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS 338.020 to 338.090, inclusive," apply to a specific project, type of project or other authorization for or reference to a construction project must be construed as requiring that the provisions of NRS 338.010 to 338.090, inclusive, apply to the project in the same manner that those provisions apply to a public work, except that the project is hereby deemed to be a public work solely for the purpose of the application of those provisions.

Sec. 13. **NRS 338.010 is hereby amended to read as follows:**

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

9. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

10. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

11. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

12. "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

13. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➥ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

14. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

15. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; ~~[and]~~

(10) All other publicly owned works and property ~~[.]~~ ***; and***

(11) All other projects for which a public body provides:

(I) Property for development at less than the fair market value of the property; or

(II) Financial incentives to a developer, if the financial incentives have a value of more than $100,000.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

16. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

17. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➥ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

18. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➥ for the provision of labor, materials, equipment or supplies for a construction project.

19. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

20. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

21. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

22. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 14. **NRS 338.090 is hereby amended to read as follows:**

338.090 1. Any person, including the officers, agents or employees of a public body, who violates any provision of NRS 338.010 to 338.090, inclusive, ***and section 13 of this act,*** or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. The Labor Commissioner, in addition to any other remedy or penalty provided in this chapter:

(a) Shall assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, ***and section 13 of this act,*** an amount equal to the difference between the prevailing wages required to be paid and the wages that the contractor or subcontractor actually paid; and

(b) May, in addition to any other administrative penalty, impose an administrative penalty not to exceed the costs incurred by the Labor Commissioner to investigate and prosecute the matter.

3. If the Labor Commissioner finds that a person has failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, ***and section 13 of this act,*** the public body may, in addition to any other remedy or penalty provided in this chapter, require the person to pay the actual costs incurred by the public body to investigate the matter.

Sec. 15. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. ***A proposed installment-purchase agreement approved by the governing body need not contain the following details if the governing body, before the execution of the installment-purchase agreement, delegates to its chief administrative officer or chief financial officer, or both, the authority to make a binding agreement, subject to paragraph (a) of subsection 1 of NRS 350.800:***

(a) The rate of interest to be paid under the installment-purchase agreement;

(b) The dates on which and the prices at which the prepayments may be made under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year.

5. All terms of the installment-purchase agreement other than:

(a) The rate of interest;

(b) The dates and prices for the prepayments of amounts under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year,

➥ *must be approved by the governing body before the installment-purchase agreement is executed.*

6. If an installment-purchase agreement involves a lease for a term of 35 years or less of land of the municipality on which improvements are to be located which will be, in whole or in part, the subject of the installment-purchase agreement, then no provisions of law, including, without limitation, NRS 244.2795, 244.281, 244.282, 244.283, 266.267, 268.059, 268.061 or 268.062, that require an appraisal or public bidding before

entering into or executing that lease apply to the lease entered into under this subsection.

7. If an installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

8. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~[5.]~~ ***9.*** For the purposes of subsection ~~[4,]~~ ***8,*** the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

~~[Sec. 13.]~~ ***Sec. 16.*** This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 516.

Bill read second time.

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

Amendment No. 895.

AN ACT relating to public officers; revising the provisions governing the compensation of certain elected county officers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill increases the **maximum** amount at which the board of county commissioners may set the annual salary for a county commissioner of that county. Section 1 also increases **, by 3 percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011,** the compensation to be paid to certain other elected county officers. (NRS 245.043) Pursuant to section 3 of this bill, ~~[those]~~ **the** increases **applicable to: (1) Fiscal Year 2007-2008,** become effective on July 1, 2007 ~~[.]~~ **; (2) Fiscal Year 2008-2009, become effective on July 1, 2008; (3) Fiscal Year 2009-2010, become effective on July 1, 2009; and (4) Fiscal Year 2010-2011, become effective on July 1, 2010.** However, section 4 of this bill authorizes a county that has not commenced payment of the increased annual salaries to request and receive a waiver from payment of the increases based on insufficient financial resources. If a waiver is granted for ~~[Fiscal Year 2007-2008,]~~ **any fiscal year,** section 4 prohibits retroactive payment of the increases for that fiscal year. ~~[If a waiver is granted for any subsequent fiscal year, however, a county may pay the increases retroactively for those fiscal years.]~~ Section 1

also changes the salary classification of Storey County, thereby increasing the amount of the annual salaries paid to its elected county officers. Section 2 of this bill clarifies that county commissioners are eligible for longevity pay. (NRS 245.044)

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

Section 1. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

(a) "County" includes Carson City.

(b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided by any special law, the elected officers of the counties of this State are entitled to receive ***, for the appropriate fiscal year,*** annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

ANNUAL SALARIES

Class	County	District Attorney	County Sheriff	County Clerk	County Assessor	Count Recorder	County Treasurer	Public Administrator
1	Clark	~~[$155,745~~	~~$134,263~~	~~$91,138~~	~~$91,138~~	~~$91,138~~	~~$91,138~~	~~$91,138]~~
~~f~~		~~*$181,994*~~	~~*$156,892*~~	~~*$106,498*~~	~~*$106,498*~~	~~*$106,498*~~	~~*$106,498*~~	~~*106,498]*~~
	FY 2007-2008	$160,417	$138,291	$93,872	$93,872	$93,872	$93,872	$93,872
	FY 2008-2009	165,230	142,440	96,668	96,668	96,668	96,668	96,668
	FY 2009-2010	170,187	146,713	99,589	99,589	99,589	99,589	99,589
	FY 2010-2011	175,293	151,114	102,577	102,577	102,577	102,577	102,577
2	Washoe	~~[137,485~~	~~110,632~~	~~83,543~~	~~83,543~~	~~83,543~~	~~83,543~~	~~83,543]~~
~~f~~		~~*160,657*~~	~~*129,278*~~	~~*97,623*~~	~~*97,623*~~	~~*97,623*~~	~~*97,623*~~	~~*97,623]*~~
	FY 2007-2008	141,610	113,951	86,049	86,049	86,049	86,049	86,049
	FY 2008-2009	145,858	117,370	88,630	88,630	88,630	88,630	88,630
	FY 2009-2010	150,234	120,891	91,289	91,289	91,289	91,289	91,289
	FY 2010-2011	154,741	124,518	94,028	94,028	94,028	94,028	94,028
3	Carson City	~~[98,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~-------~~	~~65,012~~	~~-------]~~
~~f~~		~~*115,343*~~	~~*95,640*~~	~~*75,969*~~	~~*75,969*~~	~~-------~~	~~*75,969*~~	~~-------*]~~
	FY 2007-2008	101,668	84,301	66,962	66,962		66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971		68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040		71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171		73,171	
	Churchill	~~[98,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~-------~~	~~-------]~~
~~f~~		~~*115,343*~~	~~*95,640*~~	~~*75,969*~~	~~*75,969*~~	~~*75,969*~~	~~-------~~	~~-------*]~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		
	Douglas	~~[98,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~-------~~	~~-------]~~
~~f~~		~~*115,343*~~	~~*95,640*~~	~~*75,969*~~	~~*75,969*~~	~~*75,969*~~	~~-------~~	~~-------*]~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		

	Elko	[98,707	81,846	65,012	65,012	65,012	65,012	----------]
[		115,343	95,640	75,969	75,969	75,969	75,969	----------]
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
	Humboldt	[98,707	81,846	65,012	65,012	65,012	65,012	----------]
[		115,343	95,640	75,969	75,969	75,969	75,969	----------]
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
	Lyon	[98,707	81,846	65,012	65,012	65,012	----------	----------]
[		115,343	95,640	75,969	75,969	75,969	----------	----------]
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		
	Nye	[98,707	81,846	65,012	65,012	65,012	65,012	----------]
[		115,343	95,640	75,969	75,969	75,969	75,969	----------]
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
4	Lander	[93,223	73,662	54,227	54,227	54,227	54,227	----------]
[		108,935	86,077	63,366	63,366	63,366	63,366	----------]
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
	Storey	*[108,935*	*86,077*	*63,366*	*63,366*	*63,366*	*63,366*	*----------]*
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
	White Pine	[93,223	73,662	54,227	54,227	54,227	54,227	----------]
[		108,935	86,077	63,366	63,366	63,366	63,366	----------]
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
5	Eureka	[82,256	58,929	48,607	48,607	48,607	----------	----------]
[		96,120	68,861	56,799	56,799	56,799	----------	----------]
	FY 2007-2008	84,724	60,697	50,065	50,065	50,065		
	FY 2008-2009	87,266	62,518	51,567	51,567	51,567		
	FY 2009-2010	89,884	64,394	53,114	53,114	53,114		
	FY 2010-2011	92,581	66,326	54,707	54,707	54,707		
	Lincoln	[82,256	58,929	48,607	48,607	48,607	48,607	----------]
[		96,120	68,861	56,799	56,799	56,799	56,799	----------]
	FY 2007-2008	84,724	60,697	50,065	50,065	50,065	50,065	
	FY 2008-2009	87,266	62,518	51,567	51,567	51,567	51,567	
	FY 2009-2010	89,884	64,394	53,114	53,114	53,114	53,114	
	FY 2010-2011	92,581	66,326	54,707	54,707	54,707	54,707	
	Mineral	[82,256	58,929	48,607	48,607	48,607	----------	----------]
[		96,120	68,861	56,799	56,799	56,799	----------	----------]
	FY 2007-2008	84,724	60,697	50,065	50,065	50,065		
	FY 2008-2009	87,266	62,518	51,567	51,567	51,567		
	FY 2009-2010	89,884	64,394	53,114	53,114	53,114		
	FY 2010-2011	92,581	66,326	54,707	54,707	54,707		
	Pershing	[82,256	58,929	48,607	48,607	48,607	----------	----------]
[		96,120	68,861	56,799	56,799	56,799	----------	----------]
	FY 2007-2008	84,724	60,697	50,065	50,065	50,065		
	FY 2008-2009	87,266	62,518	51,567	51,567	51,567		
	FY 2009-2010	89,884	64,394	53,114	53,114	53,114		

	FY 2010-2011	92,581	66,326	54,707	54,707	54,707		
	~~[Storey]~~	~~[82,256~~	~~58,929~~	~~48,607~~	~~48,607~~	~~48,607~~	~~-------~~	~~-------]~~
6	Esmeralda	~~[65,314~~	~~52,382~~	~~42,531~~	~~42,531~~	~~42,531~~	~~-------~~	~~-------]~~
~~[~~		~~76,322~~	~~62,379~~	~~49,699~~	~~49,699~~	~~49,699~~	~~-------~~	~~-------]~~
	FY 2007-2008	67,273	53,953	43,807	43,807	43,807		
	FY 2008-2009	69,291	55,572	45,121	45,121	45,121		
	FY 2009-2010	71,370	57,239	46,475	46,475	46,475		
	FY 2010-2011	73,511	58,956	47,869	47,869	47,869		

3. A board of county commissioners may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county, but in no event may the annual salary exceed an amount which equals ~~[126.65]~~ ***~~[143.504]~~*** ***139.315*** percent of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

Sec. 2. NRS 245.044 is hereby amended to read as follows:

245.044 1. On and after July 1, 1973, if an elected county officer has served in his office for more than 4 years, he is entitled to an additional salary of 2 percent of his base salary ***for the appropriate fiscal year as*** provided in ***subsection 2 of*** NRS 245.043 ***or his annual salary set pursuant to subsection 3 of NRS 245.043, as applicable,*** for each full calendar year he has served in his office.

2. The additional salary provided in this section for an eligible county officer:

(a) Must be computed on July 1 of each year by multiplying 2 percent of the base salary ***for the appropriate fiscal year as*** provided in NRS 245.043 ***or the annual salary set pursuant to subsection 3 of NRS 245.043 , as applicable,*** by the number of full calendar years the elected county officer has served in his office; and

(b) Must not exceed 20 percent of the base salary ***for the appropriate fiscal year as*** provided in NRS 245.043 ~~[.]~~ ***or the annual salary set pursuant to subsection 3 of NRS 245.043*** ~~[.]~~ ***, as applicable.***

3. Service on the Board of Supervisors of Carson City for the initial term which began on July 1, 1969, and ended on the first Monday of January, 1973, shall be deemed to constitute 4 full calendar years of service for the purposes of this section.

Sec. 3. Except as otherwise provided in section 4 of this act, each county shall commence payment of the increased annual salaries of the elected officers of the county set forth in the table of annual salaries contained in subsection 2 of NRS 245.043, as amended by section 1 of this act ~~[.]~~ **:**

1. **For Fiscal Year 2007-2008,** on July 1, 2007.
2. **For Fiscal Year 2008-2009, on July 1, 2008.**
3. **For Fiscal Year 2009-2010, on July 1, 2009.**
4. **For Fiscal Year 2010-2011, on July 1, 2010.**

Sec. 4. 1. Except as otherwise provided in subsection 3, a board of county commissioners may apply to the Committee on Local Government Finance for a waiver from the requirement to increase the annual salaries of elected officers of the county to the annual salaries set forth in the table

contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, **for any of Fiscal Years 2007-2008, 2008-2009, 2009-2010 or 2010-2011,** if the board determines that the financial resources of the county are insufficient to pay those increased annual salaries in ~~[Fiscal Year 2007-2008.]~~ **the applicable fiscal year.** The Committee on Local Government Finance shall grant such a waiver if it finds that the financial resources of the county are insufficient to pay those increased annual salaries in ~~[Fiscal Year 2007-2008.]~~ **the applicable fiscal year.**

2. A board of county commissioners that has been granted a waiver for a fiscal year **as described in subsection 1** may apply to the Committee on Local Government Finance for an additional waiver for the next consecutive fiscal year if ~~[it finds]~~ **the board determines** that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act ~~[.]~~ **, in that fiscal year.** There is no limitation on the number of waivers for consecutive fiscal years that the board of county commissioners may be granted if the board ~~[of county commissioners finds]~~ **determines** that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year.

3. After commencing payment of the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, **in any fiscal year,** a board of county commissioners may not apply for a waiver in any subsequent fiscal year.

4. The increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act ~~[:~~

~~(a) Must]~~ **, must** not be paid retroactively for ~~[the period of Fiscal Year 2007-2008]~~ **any fiscal year** for which a waiver was granted to the county pursuant to subsection 1.

~~[(b) May be paid retroactively for any fiscal year after Fiscal Year 2007-2008 for which a waiver was granted to the county pursuant to subsection 2.]~~

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, re-engrossed and 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 11:47 a.m.

ASSEMBLY IN SESSION

At 12:13 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 274, 289, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 200 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 320 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 354 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 398 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 483 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 533 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 535 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 536 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 266 be taken from its position on the General File and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 266.

Bill read third time.

Remarks by Assemblymen Parks, Hardy, Mabey, Leslie, and Madam Speaker.

Assemblyman Parks requested that the following remarks be entered in the Journal.

ASSEMBLYMAN PARKS:

Senate Bill 266 requires a health care provider to ensure that a woman receives, as part of her routine prenatal care, a test for the human immunodeficiency virus (HIV). A health care provider must ensure that a pregnant woman receives the test during her third trimester if she receives care in a jurisdiction with a high prevalence of HIV or acquired immunodeficiency syndrome among women of childbearing age, she receives care in a high-risk clinical setting, or she reports that she has one or more of the risk factors identified by the Centers for Disease Control and Prevention.

The health care provider also must ensure that the woman receives a rapid test for HIV during childbirth if she has not been tested for HIV earlier during her pregnancy or the results of an earlier test are not available. If the result of the test is positive, the health care provider must offer to initiate antiretroviral prolaxis without waiting for results of any other tests administered to confirm the result of the rapid test.

The measure requires that each of these tests be administered unless the woman chooses not to be tested. A health care provider who attends or assists in the delivery of a child must ensure that an HIV test is performed on the child if the mother has not been tested for HIV earlier during the pregnancy or the results of the earlier test are not available unless a parent or guardian objects to the test on religious grounds.

The measure also requires that each test administered to a woman or performed on a child pursuant to the provisions of the act be administered or performed in accordance with certain state and federal laws.

I recommend passage. Thank you.

ASSEMBLYMAN HARDY:

In way of question, if I may—and to disclose that I am a family physician—periodically I will have a patient come in for whom I need to do a pregnancy test. A pregnancy test is fairly rapid. I get it back quickly and then I say to the person, “Yes, you are pregnant.” Thus, I have participated in virtual prenatal care. I am then interested in referring that person to another practitioner. My question would be, would that put a practitioner in an awkward position of providing prenatal care and being dependant on the patient to go to another practitioner, thus, not receiving prenatal care inasmuch as that is not under my control?

By this bill, as I read it, I would be potentially remiss in my duty for not doing everything at that time—which would not be the wisest thing to do at the time of the first visit when I refer that person to a specialist.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

The question was would a general practitioner or a physician who merely does a pregnancy test be considered to have rendered prenatal care so as to fall under the provisions of the bill.

ASSEMBLYMAN HARDY:

That is, in essence, what I am asking, and where I come from, it would be prenatal care because I am diagnosing the condition as well as suggesting the ongoing care.

ASSEMBLYMAN PARKS:

The intent of this legislation is to do everything we possibly can to test for HIV in pregnant women. This bill tries to narrow the time down to the hospital setting, near delivery, for making sure that the test has been performed, or if necessary, performed for a second time.

One of the things we heard in testimony and has become relatively apparent is that across the country, there has been a large number of children who have been born with HIV that could have easily been prevented—the transmission of the disease to the newborn. This bill seeks to address that the best we can.

With regards to my colleague from Boulder City, there are only so many things we can do, and this bill tries to address it as best as possible. We know that we are not going to cover absolutely every possibility, but I think this is a great start.

ASSEMBLYMAN MABEY:

I appreciate the words that my colleague from Assembly District 41 just offered. When I first read the bill, I had the same concerns as my colleague from Boulder City. It seems to me, the way the bill is written, that if a physician who initially sees the patient diagnoses a pregnancy and then prescribes a vitamin or helps her, that first visit would be rendering prenatal care, and thus fall under the provisions of this bill.

Regarding the hospital setting, I called Sunrise Hospital this morning and asked how long it would take to get a report if a person dropped into a hospital. They said between 30 and 60 minutes because they do a rapid HIV test. I understand the intent, but for that reason, I just do not feel that the bill is necessary. I feel physicians may unnecessarily be cut up in some of the wording.

It also mentions midwifes—there are midwifes in our community that are lay midwifes. Although I typically do not support them, they would not have access to be able to provide testing for these patients.

ASSEMBLYWOMAN LESLIE:

I rise in support of Senate Bill 266. We had a lot of testimony in committee on this point, how you define who is providing the prenatal care. I would refer the members back to section 6, and they can read for themselves the subsections there.

We had testimony from Dr. Trudy Larson, who is one of the leading figures in the state on this point. She said, as I recall, that this bill simply brings us up to the Centers for Disease Control guidelines. I am not a physician so I cannot argue the finer points of exactly who would be covered and when, but I will remind the members about the need for this. I think it is important to not lose sight of that, especially in our state. The Southern Nevada Health District reported that 74 percent of women of childbearing age in Clark County who are infected with HIV, and are aware of their status, are not in care. Consequently, their HIV/AIDS is not being treated. There is no system for health care facilities to identify women who are infected with HIV unless a test is given.

In 2005, the National Vital Statistics reported that 6.4 percent of women in Nevada received late or no prenatal care—nearly double the national average—and the statistic is even worse for minority women—8.6 percent for black women and 9.9 percent for Hispanic women.

The main reason we need to pass this bill today is because there were at least four documented cases of parinatal transmission of HIV in southern Nevada in the past two years. That is four babies who got this dread disease that we could have prevented the transmission with an HIV test. I urge your support.

Roll call on Senate Bill No. 266:

YEAS—39.

NAYS—Beers, Mabey, Settelmeyer—3.

Senate Bill No. 266 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 19.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Bill No. 19:
YEAS—42.
NAYS—None.
Senate Bill No. 19 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 43.
Bill read third time.
Remarks by Assemblyman Atkinson.
Roll call on Senate Bill No. 43:
YEAS—42.
NAYS—None.
Senate Bill No. 43 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 92.
Bill read third time.
Remarks by Assemblyman Kihuen.
Roll call on Senate Bill No. 92:
YEAS—42.
NAYS—None.
Senate Bill No. 92 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 95.
Bill read third time.
Remarks by Assemblyman Settelmeyer.
Roll call on Senate Bill No. 95:
YEAS—42.
NAYS—None.
Senate Bill No. 95 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 128.
Bill read third time.
Remarks by Assemblymen Atkinson, Christensen, and Weber.
Roll call on Senate Bill No. 128:
YEAS—42.
NAYS—None.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 140.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Senate Bill No. 140:

YEAS—42.

NAYS—None.

Senate Bill No. 140 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 303.

Bill read third time.

Remarks by Assemblymen Anderson, Hardy, Grady, and Kirkpatrick.

Roll call on Senate Bill No. 303:

YEAS—41.

NAYS—Grady.

Senate Bill No. 303 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 312.

Bill read third time.

Remarks by Assemblymen Kihuen and Smith.

Roll call on Senate Bill No. 312:

YEAS—29.

NAYS—Allen, Beers, Carpenter, Christensen, Cobb, Conklin, Goedhart, Marvel, Munford, Oceguera, Ohrenschall, Settelmeyer, Stewart—13.

Senate Bill No. 312 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 315.

Bill read third time.

Remarks by Assemblymen Claborn, Anderson, and Atkinson.

Roll call on Senate Bill No. 315:

YEAS—37.

NAYS—Anderson, Arberry, Carpenter, Cobb, Smith—5.

Senate Bill No. 315 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 329.

Bill read third time.

Remarks by Assemblymen Bobzien, Koivisto, and Goedhart.

Roll call on Senate Bill No. 329:

YEAS—36.

NAYS—Allen, Beers, Christensen, Goedhart, Hardy, Segerblom—6.

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

Bill ordered transmitted to the Senate.

Senate Bill No. 352.

Bill read third time.

Remarks by Assemblyman Munford.

Roll call on Senate Bill No. 352:

YEAS—42.

NAYS—None.

Senate Bill No. 352 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 356.

Bill read third time.

Remarks by Assemblymen Leslie, Stewart, and Gerhardt.

Roll call on Senate Bill No. 356:

YEAS—32.

NAYS—Allen, Beers, Christensen, Cobb, Goedhart, Hardy, Marvel, Settelmeyer, Stewart, Weber—10.

Senate Bill No. 356 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 367.

Bill read third time.

Remarks by Assemblymen Womack and Carpenter.

Roll call on Senate Bill No. 367:

YEAS—42.

NAYS—None.

Senate Bill No. 367 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 400 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 1:07 p.m.

ASSEMBLY IN SESSION

At 1:15 p.m.
Madam Speaker presiding.
Quorum present.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman McClain moved that the Assembly do not recede from its action on Senate Bill No. 154, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Denis, Anderson, and Marvel as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 154.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 115, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Parnell, Denis, and Beers as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 115.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 56.

The following Senate amendment was read:

Amendment No. 736.

AN ACT relating to contractors; revising the administrative penalties that may be imposed against a contractor who knowingly enters into a contract with an unlicensed contractor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a contractor who knowingly enters into a contract with an unlicensed contractor may be punished by the imposition of an administrative fine of not more than $50,000. (NRS 624.300, 624.3015) This bill revises the administrative penalties that may be imposed against a contractor who enters into such a contract by requiring the imposition of an

administrative fine and providing for the suspension or revocation of his license.

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

Section 1. NRS 624.300 is hereby amended to read as follows:

624.300 1. Except as otherwise provided in subsections 3 and ~~[4,]~~ ***5,*** the Board may:

(a) Suspend or revoke licenses already issued;

(b) Refuse renewals of licenses;

(c) Impose limits on the field, scope and monetary limit of the license;

(d) Impose an administrative fine of not more than $10,000;

(e) Order a licensee to repay to the account established pursuant to NRS 624.470, any amount paid out of the account pursuant to NRS 624.510 as a result of an act or omission of that licensee;

(f) Order the licensee to take action to correct a condition resulting from an act which constitutes a cause for disciplinary action, at the licensee's cost, that may consist of requiring the licensee to:

(1) Perform the corrective work himself;

(2) Hire and pay another licensee to perform the corrective work; or

(3) Pay to the owner of the construction project a specified sum to correct the condition; or

(g) Issue a public reprimand or take other less severe disciplinary action, including, without limitation, increasing the amount of the surety bond or cash deposit of the licensee,

➥ if the licensee commits any act which constitutes a cause for disciplinary action.

2. If the Board suspends or revokes the license of a contractor for failure to establish financial responsibility, the Board may, in addition to any other conditions for reinstating or renewing the license, require that each contract undertaken by the licensee for a period to be designated by the Board, not to exceed 12 months, be separately covered by a bond or bonds approved by the Board and conditioned upon the performance of and the payment of labor and materials required by the contract.

3. If a licensee violates ~~[the]~~ ***:***

(a) The provisions of NRS 624.3014, subsection 2 or 3 of NRS 624.3015, subsection 1 of NRS 624.302 or subsection 1 of NRS 624.305, the Board may impose for each violation an administrative fine in an amount that is not more than $50,000.

(b) The provisions of subsection 4 of NRS 624.3015:

(1) For a first offense, the Board shall impose an administrative fine of not less than $1,000 and not more than $50,000, and may suspend the license of the licensee for 6 months;

(2) For a second offense, the Board shall impose an administrative fine of not less than $5,000 and not more than $50,000, and ~~[shall]~~ may suspend the license of the licensee for 1 year; and

(3) For a third or subsequent offense, the Board shall impose an administrative fine of not less than $10,000 and not more than $50,000, and ~~[shall]~~ may revoke the license of the licensee.

4. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to ~~[this subsection.]~~ ***subsection 3.*** The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

~~[4.]~~ ***5.*** If a licensee is prohibited from being awarded a contract for a public work pursuant to NRS 338.017, the Board may suspend the license of the licensee for the period of the prohibition.

~~[5.]~~ ***6.*** If a licensee commits a fraudulent act which is a cause for disciplinary action under NRS 624.3016, the correction of any condition resulting from the act does not preclude the Board from taking disciplinary action.

~~[6.]~~ ***7.*** If the Board finds that a licensee has engaged in repeated acts that would be cause for disciplinary action, the correction of any resulting conditions does not preclude the Board from taking disciplinary action pursuant to this section.

~~[7.]~~ ***8.*** The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license by a licensee, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

~~[8.]~~ ***9.*** The Board shall not issue a private reprimand to a licensee.

~~[9.]~~ ***10.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

~~[10.]~~ ***11.*** An administrative fine imposed pursuant to this section, NRS 624.341 or 624.710 plus interest at a rate that is equal to the prime rate at the largest bank in this State, as determined by the Commissioner of Financial Institutions on January 1 or July 1, as appropriate, immediately preceding the date of the order imposing the administrative fine, plus 4 percent, must be paid to the Board before the issuance or renewal of a license to engage in the business of contracting in this State. The interest must be collected from the date of the order until the date the administrative fine is paid.

~~[11.]~~ ***12.*** All 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. 2. NRS 624.3015 is hereby amended to read as follows:

624.3015 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Acting in the capacity of a contractor beyond the scope of the license.

2. Bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the Board.

3. ~~*[Bidding]*~~ ***Knowingly bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license.***

4. Knowingly entering into a contract with a contractor while that contractor is not licensed**.** ~~[, or bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license.~~

~~4.]~~ ***5.*** Constructing or repairing a mobile home, manufactured home or commercial coach, unless the contractor:

(a) Is licensed pursuant to NRS 489.311; or

(b) Owns, leases or rents the mobile home, manufactured home or commercial coach.

~~[5.]~~ ***6.*** Engaging in any work or activities that require a contractor's license while the license is placed on inactive status pursuant to NRS 624.282.

Assemblyman Oceguera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 56.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 68.

The following Senate amendment was read:

Amendment No. 704.

AN ACT relating to public health; expanding the grounds for which the Health Division of the Department of Health and Human Services is authorized to deny, suspend or revoke a license to operate certain medical and care facilities and agencies; expanding the grounds for which termination of an employee or independent contractor of such a facility or agency is required; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, grounds for which the Health Division of the Department of Health and Human Services may deny, suspend or revoke a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups include conviction of certain crimes by the applicant or licensee or continued employment by the licensee of persons convicted of those crimes. In addition, grounds for which the Health Division may deny, suspend or revoke a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home include continued employment by the licensee of a person convicted of

certain crimes. (NRS 449.160, 449.188) If the administrator of, or the person licensed to operate, such a facility or agency receives information or evidence that an employee or independent contractor has been convicted of certain crimes, the administrator or licensee is required to terminate the employment or contract of that person. (NRS 449.185) This bill expands the list of crimes for which such action is authorized or required to include the abuse, neglect, exploitation or isolation of elderly or vulnerable persons, violations of provisions relating to the State Plan for Medicaid, and any criminal act concerning Medicaid or Medicare**.**

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

Section 1. NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups to an applicant or may suspend or revoke the license of a licensee to operate such a facility if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(4) Abuse or neglect of a child or contributory delinquency;

(5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

(6) ~~[A]~~ ***Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a*** violation of any provision of NRS ~~[200.50955 or 200.5099;]~~ ***200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;***

(7) ***A violation of any provision of law relating to the State Plan for Medicaid, including, without limitation, a violation of any provision of NRS 422.450 to 422.590, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years;***

(8) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;

(9) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(8)]~~ ***(10)*** Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

(b) The licensee has ***, in violation of NRS 449.185,*** continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has ***, in violation of NRS 449.185,*** continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

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

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 68.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 215.

The following Senate amendment was read:

Amendment No. 751.

SUMMARY—~~[Limits interstate banking by certain entities that open branch offices in this State pursuant to certain statutory provisions.]~~ **Makes various changes concerning financial institutions.** (BDR 55-1125)

AN ACT relating to ~~[banking;]~~ **financial institutions;** limiting interstate banking by an out-of-state depository institution that establishes or acquires a branch office in certain counties pursuant to certain statutory provisions; **authorizing certain out-of-state depository institutions to issue a credit card under certain circumstances; prohibiting the issuer of a credit card from increasing the rate of interest it charges to a cardholder under certain circumstances; requiring the issuer of a credit card to provide certain information to credit reporting agencies under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides limitations upon banking in this State by out-of-state depository institutions and out-of-state holding companies. (Chapter 666 of NRS) An exception to these limitations allows the establishment of a branch office or the acquisition of an existing branch of a depository institution in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties). (NRS 666.410) Section 1 of this bill provides that an out-of-state depository institution that establishes or acquires a branch office pursuant to this exception is still considered an out-of-state depository institution for the purposes of all other provisions limiting interstate banking. Section 1 also provides that an out-of-state depository institution that has established or acquired, or been approved to establish or acquire, a branch pursuant to this exception may also establish or acquire a branch in a county whose population is 100,000 or more, but only so long as the out-of-state

depository institution continues to operate a branch in a county whose population is less than 100,000.

Existing law governs the issuance of credit cards by financial institutions in this State. (Chapter 97A of NRS) Section 1.4 of this bill prohibits the issuer of a credit card from increasing the interest rate it charges a cardholder based upon a late payment by the cardholder to an unrelated credit card issuer or creditor. Section 1.4 also prohibits a credit card issuer from including a universal default clause in a contract or other agreement relating to a credit card account. Section 1.6 of this bill prohibits the issuer of a credit card from prohibiting or attempting to prohibit a merchant from offering a discount to a customer to induce the customer to pay for goods or services with by cash, check or other means instead of with a credit card. Section 1.8 of this bill provides that if a cardholder voluntarily closes a credit card account to avoid a change in the terms or conditions of the account made by the issuer of the credit card, the issuer must notify any credit reporting agency to which it provides information concerning the cardholder's account that the closure of the account was voluntary on the part of the cardholder.

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

Section 1. NRS 666.410 is hereby amended to read as follows:

666.410 ***1.*** An out-of-state depository institution without a branch in Nevada or an out-of-state holding company without a depository institution in Nevada may not establish a de novo branch in this State or acquire, through merger or otherwise, a branch of a depository institution in Nevada without acquiring the institution itself or its charter, except that, with the written approval of the Commissioner:

~~[1.]~~ ***(a)*** An out-of-state depository institution without a branch in Nevada ~~[or an out-of-state holding company without a depository institution in Nevada]~~ may establish a branch office or acquire an existing branch in a county whose population is less than 100,000 without acquiring or merging with a Nevada depository institution or a Nevada holding company **.** ~~[; and]~~ ***Except as otherwise provided in subsection 2, an out-of-state depository institution that establishes or acquires a branch office pursuant to this paragraph continues to be considered an out-of-state depository institution without a branch in Nevada for the purposes of all other provisions of this chapter.***

~~[2.]~~ ***(b)*** An out-of-state depository institution without a branch in Nevada which is owned or controlled by a holding company that is entitled to the exemption set forth in section 4(c)(i) of the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1843(c)(i), may acquire an existing branch in Nevada without acquiring or merging with a Nevada depository institution or a Nevada holding company.

2. An out-of-state depository institution that on or before ~~[March 31,]~~ April 1, 2007, has, pursuant to paragraph (a) of subsection 1, established or acquired, or been approved by the Commissioner to establish or acquire, a branch in a county whose population is less than 100,000, may establish or acquire a branch in a county whose population is 100,000 or more so long as the out-of-state depository institution continues to operate a branch in a county whose population is less than 100,000.

3. An out-of-state depository institution that establishes or acquires a branch office pursuant to this section may issue a credit card pursuant to the provisions of chapter 97A of NRS.

Sec. 1.2. **Chapter 97A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.6 of this act.**

Sec. 1.4. 1. An issuer shall not:

(a) Increase the interest rate it charges a cardholder for the use of the card based upon the late payment by the cardholder to another issuer or a creditor of the cardholder that is not an affiliate or subsidiary of the issuer; or

(b) Include a universal default clause in a contract or other agreement relating to a credit card account.

2. Notwithstanding the provisions of subsection 1, an issuer may increase the interest rate it charges a cardholder for the use of the card based on a change in the credit rating of the cardholder.

3. As used in this section:

(a) "Affiliate or subsidiary of the issuer" means an affiliate or subsidiary that conducts business under a name that is:

(1) The same as the name of the issuer; or

(2) Sufficiently similar to the name of the issuer that a cardholder could reasonably believe that he is conducting business with the issuer.

(b) "Universal default clause" means a clause or provision that allows an issuer to increase the interest rate it charges a cardholder for the use of the card based upon the late payment by the cardholder to another issuer or a creditor of the cardholder that is not an affiliate or subsidiary of the issuer.

Sec. 1.6. An issuer shall not, by contract or any other method, prohibit or attempt to prohibit a merchant who provides goods or services to a cardholder from offering a discount to the cardholder to induce the customer to pay for the goods or services by cash, check or other means instead of by use of a credit card or credit card account.

Sec. 1.8. **NRS 97A.140 is hereby amended to read as follows:**

97A.140 1. An issuer located in this State shall not issue a credit card to a cardholder unless the issuer first:

(a) Provides the written notice required pursuant to NRS 97A.145 to the cardholder; and

(b) Receives a written or oral request from the cardholder for the issuance of the credit card.

2. An issuer shall provide the cardholder with the terms and conditions that govern the use of the credit card, in writing, before or at the time of the receipt of the credit card. A cardholder shall be deemed to have accepted the written terms and conditions provided by the issuer upon subsequent actual use of the credit card.

3. The rate of interest charged, and any other fees or charges imposed for the use of the credit card, must be in an amount agreed upon by the issuer and cardholder.

4. An issuer may unilaterally change any term or condition for the use of a credit card without prior written notice to the cardholder unless the change will adversely affect or increase the costs to the cardholder for the use of the credit card. If the change will increase such costs, the issuer shall provide ~~[notice]~~ to the cardholder ***:***

(a) An identifiable notice of the change at least 30 days before the change becomes effective ~~[.]~~ ***; and***

(b) An opportunity to avoid the change, including, without limitation, by voluntarily closing his credit card account after providing notice to the issuer. If the cardholder closes his credit card account and the issuer provides any information about the account to a credit reporting agency, the issuer must notify the agency that the cardholder voluntarily closed the credit card account.

5. Unless otherwise stated as a term or condition, the law of this State governs all transactions relating to the use of a credit card if an issuer, or the service provider of an issuer, is located in this State.

Sec. 2. **1.** This **section and section 1 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 1.2 to 1.8, inclusive, of this act become effective on July 1, 2007.

Assemblyman Oceguera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 215.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Joint Resolution No. 3.

The following Senate amendment was read:

Amendment No. 630.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Nevada Constitution to revise provisions relating to the taking of private property by eminent domain.

Legislative Counsel's Digest:

Section 8 of Article 1 of the Nevada Constitution and the Fifth Amendment to the United States Constitution provide that private property cannot be taken for a public use without just compensation. In ***Kelo v. City of New London***, 125 S.Ct. 2655 (2005), the United States Supreme Court ruled

that the use of eminent domain to acquire property and transfer it to another private party for the purpose of economic development does not violate the Takings Clause of the Fifth Amendment to the United States Constitution.

This resolution proposes an amendment to the Nevada Constitution to prohibit, except in certain circumstances, the taking of private property if the purpose of the taking is to transfer an interest in that property to another private party.

In addition, the amendment proposed by this resolution requires an entity which is taking property by the exercise of eminent domain to provide the owner of the property with all appraisals of the property obtained by the entity before the entity is allowed to occupy the property. Furthermore, in all eminent domain actions, the owner of the property that is being taken is entitled to a determination of whether the taking is for a public use and the entity that is taking the property has the burden of proving that the taking is for a public use.

The amendment proposed by this resolution provides for the manner of computing the just compensation owed to a person whose property is taken by the exercise of eminent domain. Also, the amendment provides that neither a property owner nor an entity which is taking property by the exercise of eminent domain is liable for the attorney's fees of the other party, except in a certain circumstance. Under the amendment, the owner of property taken by the exercise of eminent domain, or his successor in interest, has the right to reacquire the property for the price paid by the entity which took the property under certain circumstances.

This resolution also proposes to repeal the "People's Initiative to Stop the Taking of Our Land" if that initiative is approved by the voters at the 2008 General Election.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 8 of Article 1 of the Nevada Constitution be amended to read as follows:

Sec. 8. 1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the Legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or Attorney General of the State, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself.

2. The Legislature shall provide by law for the rights of victims of crime, personally or through a representative, to be:

(a) Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;

(b) Present at all public hearings involving the critical stages of a criminal proceeding; and

(c) Heard at all proceedings for the sentencing or release of a convicted person after trial.

3. Except as otherwise provided in subsection 4, no person may maintain an action against the State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of any statute enacted by the Legislature pursuant to subsection 2. No such violation authorizes setting aside a conviction or sentence or continuing or postponing a criminal proceeding.

4. A person may maintain an action to compel a public officer or employee to carry out any duty required by the Legislature pursuant to subsection 2.

5. No person shall be deprived of life, liberty, or property, without due process of law.

6. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

7. Except as otherwise provided in paragraphs (a) to (e), inclusive, the public uses for which private property may be taken do not include the direct or indirect transfer of any interest in the property to another private person or entity. A transfer of property taken by the exercise of eminent domain to another private person or entity is a public use in the following circumstances:

(a) The entity that took the property transfers the property to a private person or entity and the private person or entity uses the property primarily to benefit a public service, including, without limitation, a utility, railroad, public transportation project, pipeline, road, bridge, airport or facility that is owned by a governmental entity.

(b) The entity that took the property leases the property to a private person or entity that occupies an incidental part of an airport or a facility that is owned by a governmental entity and, before leasing the property:

(1) Uses its best efforts to notify the person from whom the property was taken that the property will be leased to a private person or entity that will occupy an incidental part of an airport or a facility that is owned by a governmental entity; and

(2) Provides the person from whom the property was taken with an opportunity to bid or propose on ~~*[an equal basis with others.]*~~ ***any such lease.***

(c) The entity:

(1) Took the property in order to acquire property that was abandoned by the owner, abate an immediate threat to the safety of the public or remediate hazardous waste; and

(2) Grants a right of first refusal to the person from whom the property was taken that allows that person to reacquire the property on the same terms and conditions that are offered to the other private person or entity.

(d) The entity that took the property ~~[transfers an interest in the property to a private person or entity in exchange for an interest in the property that was taken, or is being taken,]~~ exchanges it for other property acquired or being acquired by ~~[the exercise of]~~ eminent domain or under the threat of ~~[the exercise of]~~ eminent domain for ~~[the purpose of a road]~~ roadway or highway ~~[, the relocation of]~~ purposes, to relocate public or private structures or to ~~[facilitate or]~~ avoid payment of excessive compensation or damages.

(e) The person from whom the property is taken consents to the taking.

8. In all actions in eminent domain:

(a) Before the entity that is taking property obtains possession of the property, the entity shall give to the owner of the property a copy of all appraisals of the property obtained by the entity.

(b) At the occupancy hearing, the owner of the property that is the subject of the action is entitled, at the property owner's election, to a separate and distinct determination as to whether the property is being taken for a public use.

(c) The entity that is taking property has the burden of proving that the taking is for a public use.

(d) Except as otherwise provided in this paragraph, neither the entity that is taking property nor the owner of the property is liable for the attorney's fees of the other party. This paragraph does not apply in an inverse condemnation action if the owner of the property that is the subject of the action makes a request for attorney's fees from the other party to the action.

9. Except as otherwise provided in this subsection, if a court determines that a taking of property is for public use, the taken or damaged property must be valued at its highest and best use without considering any future dedication requirements imposed by the entity that is taking the property. If property is taken primarily for a profit-making purpose, the property must be valued at the use to which the entity that is taking the property intends to put the property, if such use results in a higher value for the property.

10. In all actions in eminent domain, fair market value is the highest price, on the date of valuation, that would be agreed to by a seller, who is willing to sell on the open market and has reasonable time to find a purchaser, and a buyer, who is ready, willing and able to buy, if both the seller and the buyer had full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

11. In all actions in eminent domain, just compensation is that sum of money necessary to place the property owner in the same position monetarily as if the property had never been taken, excluding any

governmental offsets except special benefits. Special benefits may only offset severance damages and may not offset the value for the property. Just compensation for the property taken by the exercise of eminent domain must include, without limitation, interest and reasonable costs and expenses, except attorney's fees, incurred by the owner of the property that is the subject of the action. The district court shall determine, in a posttrial hearing, the award of interest and award as interest the amount of money which will put the person from whom the property is taken in as good a position monetarily as if the property had not been taken. The district court shall enter an order concerning:

(a) The date on which the computation of interest will commence;

(b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and

(c) Whether the interest will be compounded annually.

12. Property taken by the exercise of eminent domain must be offered to and reverts to the person from whom the property was taken upon repayment of the original purchase price if, within 15 years after obtaining possession of the property, the entity that took the property:

(a) Fails to use the property for the public use for which the property was taken or for any public use reasonably related to the public use for which the property was taken; or

(b) Seeks to convey any right, title or interest in all or part of the property to any other person and the conveyance is not occurring pursuant to subsection 7.

➥ The entity that has taken the property does not fail to use the property under paragraph (a) if the entity has begun active planning for or design of the public use, the assembling of land in furtherance of planning for or design of the public use or construction related to the public use.

13. If any provision of subsections 7 to 12, inclusive, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or application of subsections 7 to 12, inclusive, which can be given effect without the invalid provision or application, and to this end the provisions of subsections 7 to 12, inclusive, are declared to be severable.

14. The provisions of subsections 7 to 12, inclusive, apply to an action in eminent domain that is filed on or after January 1, 2011.

And be it further

RESOLVED, That Section 22 of Article 1 of the Nevada Constitution, commonly known as the "People's Initiative to Stop the Taking of Our Land," if that section is approved and ratified by the voters at the 2008 General Election, is hereby repealed.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Joint Resolution No. 3.

Remarks by Anderson.

Motion carried by a constitutional majority.

Resolution ordered to enrollment.

SECOND READING AND AMENDMENT

Senate Bill No. 274.

Bill read second time.

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

Amendment No. 945.

AN ACT relating to water; expanding the purposes for which the State Engineer may adopt regulations; authorizing the State Engineer to impose administrative fines and to order payment of the costs of certain proceedings; authorizing the State Engineer to seek injunctive relief for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Pursuant to existing law, the State Engineer may make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred on him by law. (NRS 532.120) The penalty prescribed for the violation of a majority of the provisions set forth in chapters 533, 534, 535 and 536 of NRS is a misdemeanor. (NRS 533.480, 534.190, 535.110, 536.120)

Section 1 of this bill expands the provisions for which the State Engineer may adopt regulations to include chapters 534, 535 and 536 of NRS in addition to chapter 533 of NRS. Sections 3, 7, 10 and 14 of this bill provide the State Engineer with the additional authority to impose, after notice and opportunity for a hearing, administrative fines, to require a person to replace certain unlawfully taken or wasted water, and to recover expenses incurred in investigating and stopping various water law violations. **Section 7 provides additionally that: (1) in determining violations relating to the unauthorized use of water from certain wells, it is the burden of the State Engineer to prove which user or users of water are withdrawing water in excess of their individual allotments; and (2) the State Engineer may require users of water from certain wells to install and maintain, at their own expense, meters to measure their individual withdrawal of water.**

Sections 4, 8, 11 and 15 of this bill authorize the State Engineer to seek injunctive relief to prevent a violation or continued violation of chapters 533, 534, 535 and 536 of NRS.

Section 16 of this bill requires the State Engineer to consider certain matters in adopting regulations to carry out the amendatory provisions of this bill.

Section 17 of this bill requires the State Engineer, on or before January 1, 2009, to submit to the Director of the Legislative Counsel Bureau a written report detailing his efforts in, and progress toward, the

development and adoption of regulations to carry out the amendatory provisions of this bill.

Section 18 of this bill prohibits the State Engineer, before July 1, 2009, from imposing an administrative penalty pursuant to the amendatory provisions of this bill or any regulations adopted to carry out those amendatory provisions.

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

Section 1. NRS 532.120 is hereby amended to read as follows:

532.120 1. The State Engineer ~~[is empowered to]~~ ***may*** make such reasonable rules and regulations as may be necessary for the proper and orderly execution of the powers conferred by law.

2. The State Engineer ~~[shall have power to make rules,]~~ ***may adopt regulations,*** not in conflict with law, governing the practice and procedure in all contests before his office, to ~~[insure]~~ ***ensure*** the proper and orderly exercise of the powers granted by law, and the speedy accomplishment of the purposes of ~~[chapter]~~ ***chapters*** 533 ***, 534, 535 and 536*** of NRS. Such rules of practice and procedure ~~[shall]~~ ***must*** be furnished to any person upon application therefor.

Sec. 2. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 4.5 of this act.

Sec. 3. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, certificate, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:***

(a) Pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, or any other violation of this chapter that, as determined by the State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the replacement of water or the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 4. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit,***

certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, certificate, decision or order issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation specified in this section.

Sec. 4.5. ***The State Engineer shall not carry out his duties pursuant to this chapter in a manner that conflicts with any applicable provision of a decree or order issued by a state or federal court, an interstate compact or an agreement to which this State is a party for the interstate allocation of water pursuant to an act of Congress.***

Sec. 5. NRS 533.450 is hereby amended to read as follows:

533.450 1. Any person feeling himself aggrieved by any order or decision of the State Engineer, acting in person or through his assistants or the water commissioner, affecting his interests, when ~~[such]~~ ***the*** order or decision relates to the administration of determined rights or is made pursuant to NRS 533.270 to 533.445, inclusive, ***or section 3, 7, 10 or 14 of this act,*** may have the same reviewed by a proceeding for that purpose, insofar as may be in the nature of an appeal, which ~~[shall]~~ ***must*** be initiated in the proper court of the county in which the matters affected or a portion thereof are situated ***,*** ~~[.]~~ but on stream systems where a decree of court has been entered, the action ~~[shall]~~ ***must*** be initiated in the court that entered the decree. ~~[Such]~~ ***The*** order or decision of the State Engineer ~~[shall be and remain]~~ ***remains*** in full force and effect unless proceedings to review the same are commenced in the proper court within 30 days ~~[following]~~ ***after*** the rendition of the order or decision in question and notice thereof is given to the State Engineer as provided in subsection 3.

2. The proceedings in every case ~~[shall]~~ ***must*** be heard by the court, and ~~[shall]~~ ***must*** be informal and summary, but full opportunity to be heard ~~[shall]~~ ***must*** be had before judgment is pronounced.

3. No such proceedings may be entertained unless notice thereof, containing a statement of the substance of the order or decision complained

of, and of the manner in which the same injuriously affects the petitioner's interests, has been served upon the State Engineer, personally or by registered or certified mail, at his office at the State Capital within 30 days following the rendition of the order or decision in question. A similar notice ~~[shall]~~ ***must*** also be served personally or by registered or certified mail upon the person ~~[or persons]~~ who may have been affected by ~~[such]~~ ***the*** order or decision.

4. Where evidence has been filed with, or testimony taken before, the State Engineer, a transcribed copy thereof, or of any specific part of the same, duly certified as a true and correct transcript in the manner provided by law, ~~[shall]~~ ***must*** be received in evidence with the same effect as if the reporter were present and testified to the facts so certified. A copy of the transcript ~~[shall]~~ ***must*** be furnished on demand, at actual cost, to any person affected by ~~[such]~~ ***the*** order or decision, and to all other persons on payment of a reasonable amount therefor, to be fixed by the State Engineer.

5. A bond ~~[shall]~~ ***must*** not be required except when a stay is desired, and the proceedings provided for in this section are not a stay unless, within 5 days ~~[following]~~ ***after*** the service of notice thereof, a bond is filed in an amount to be fixed by the court, with sureties satisfactory to ~~[such]~~ ***the*** court, conditioned to perform the judgment rendered in ~~[such]~~ ***the*** proceedings.

6. Costs ~~[shall]~~ ***must*** be paid as in civil cases brought in the district court, except by the State Engineer or the State.

7. The practice in civil cases applies to the informal and summary character of such proceedings, as provided in this section.

8. Appeals may be taken to the Supreme Court from the judgment of the district court in the same manner as in other civil cases.

9. The decision of the State Engineer ~~[shall be]~~ ***is*** prima facie correct, and the burden of proof ~~[shall be]~~ ***is*** upon the party attacking the same.

10. Whenever it appears to the State Engineer that any litigation, whether now pending or hereafter brought, may adversely affect the rights of the public in water, he shall request the Attorney General to appear and protect the interests of the State.

Sec. 6. Chapter 534 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. ***1. Except as otherwise provided in NRS 534.280, 534.310 and 534.330 and in addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120 to:***

(a) Pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

(b) In the case of an unlawful waste of water in violation of NRS 534.070 or any other violation of this chapter that, as determined by the

State Engineer, results in an unlawful use, waste or diversion of water, replace not more than 200 percent of the water used, wasted or diverted.

2. In determining violations of this chapter relating to the unauthorized use of water yielded from a well that is used pursuant to a permit issued by the State Engineer and that has 16 or fewer connections, the State Engineer has the burden of proving which user is withdrawing water in excess of the portion of water allotted to the connection of that user. The State Engineer may require any or all users of the well to install and maintain, at their own expense, a meter that measures the amount of water withdrawn from the well by each connection.

3. If an administrative fine is imposed against a person pursuant to subsection 1 or the person is ordered to replace any water pursuant to that subsection, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

~~[3.]~~ ***4. An order imposing an administrative fine or requiring the replacement of water or payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.***

Sec. 8. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, or any permit, order or decision issued or regulation adopted by the State Engineer pursuant to this chapter or NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 9. Chapter 535 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation***

adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 11. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 12. NRS 535.100 is hereby amended to read as follows:

535.100 1. ~~[It is unlawful for any person being]~~ ***Any person who is*** the owner of or in possession of any sawmill used for the making of lumber, or any slaughterhouse, brewery or tannery ~~[to]~~ ***shall not*** injure or obstruct the natural flow of water in any river, creek or other stream.

2. Any city or county government, or any person, ~~[being]~~ ***who is*** the owner of or in possession of any agricultural lands ~~[, who may be]~~ ***and who is*** injured by reason of the violation on the part of any person of the provisions contained in subsection 1 ~~[, shall have the right to]~~ ***may*** commence and maintain an action against ~~[such]~~ ***the*** person for any damage sustained, in such manner as may be provided by law.

~~[3. Any person who shall willfully and knowingly violate the provisions of this section shall be punished by a fine of not more than $500.]~~

Sec. 13. Chapter 536 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. ***1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120 to pay an administrative fine not to exceed $10,000 per day for each violation as determined by the State Engineer.***

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to NRS 533.450.

Sec. 15. ***1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120.***

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to NRS 532.120, the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

Sec. 16. **The State Engineer shall, in adopting regulations to carry out the amendatory provisions of this act:**

1. Consider establishing a minimum threshold amount of water that a user of water would be required to exceed in using, wasting or diverting water in an unlawful manner before an administrative penalty would be imposed;

2. Comply with the provisions of chapter 233B of NRS;

3. Consider waiving an administrative penalty for a violation if the violator has, in the determination of the State Engineer, made significant progress toward correcting the violation; and

4. In addition to the requirements of subsection 1, consider waiving an administrative penalty in the case of an unauthorized use or willful waste of water in violation of NRS 533.460 or an unlawful diversion of water in violation of NRS 533.530, if the amount of water so used or wasted does not exceed 2 acre-feet per annum.

Sec. 17. **The State Engineer shall, on or before January 1, 2009, submit to the Director of the Legislative Counsel Bureau a written report detailing the efforts and progress of the State Engineer in developing and adopting regulations to carry out the amendatory provisions of this act.**

Sec. 18. **The State Engineer shall not, before July 1, 2009, impose an administrative penalty pursuant to the amendatory provisions of this act or any regulations adopted to carry out the amendatory provisions of this act.**

~~[Sec. 16.]~~ ***Sec. 19.*** This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 289.

Bill read second time.

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

Amendment No. 847.

AN ACT relating to fire protection; revising provisions that authorize a fire protection district receiving federal aid to annex territory which is contiguous to the district; ~~[revising provisions that authorize certain county]~~ **authorizing a** fire protection ~~[districts to annex territory located in]~~ **district receiving federal aid to reorganize as** a **county** fire protection district **;** ~~[receiving federal aid;]~~ authorizing the ~~[consolidation]~~ **adjustment of the boundaries** of certain contiguous fire protection districts located in a county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the creation of fire protection districts. (Chapters 473 and 474 of NRS) A fire protection district established pursuant to chapter 473 of NRS may annex territory which is contiguous to the district only upon a petition signed by a majority of the property owners within the territory and approval by the State Forester Firewarden. (NRS 473.035)

Section 1 of this bill provides an additional procedure for the annexation of new territory in a fire protection district established pursuant to chapter 473 of NRS. Section 1 authorizes the board of county commissioners of the county in which the district is organized to propose the annexation of new

territory by the adoption of a resolution and approval by the State Forester Firewarden.

Section 3 of this bill authorizes a fire protection district ~~[established pursuant to chapter 474 of NRS to annex all or part of a fire protection district organized under the provisions of]~~ **organized as provided in** chapter 473 of NRS ~~[.]~~ **to reorganize as an existing or new fire protection district that is subject to the provisions of: (1) NRS 474.010 to 474.450, inclusive; or (2) NRS 474.460 to 474.540, inclusive.** The proposed ~~[annexation]~~ **reorganization** may be initiated by a petition of ~~[the]~~ **a** majority of the owners within the ~~[area]~~ **district** proposed for ~~[annexation]~~ **reorganization** or by a resolution of the board of county commissioners of the county in which the district ~~[proposing the annexation]~~ **proposed for reorganization** is located. The State Forester Firewarden must approve the ~~[annexation.]~~ **reorganization.**

Section 4 of this bill authorizes the ~~[consolidation of all or any part of the area of]~~ **adjustment of boundaries as between** certain contiguous fire protection districts located in the same county. The proposed ~~[consolidation may be initiated]~~ **adjustment of boundaries must be approved** by **: (1)** a ~~[petition of a]~~ majority of the **directly affected** owners of ~~[the]~~ property ~~[located within the districts proposed for consolidation or by a]~~ **; and (2)** resolution of the board of county commissioners of the county in which the districts **whose boundaries are** proposed ~~[for consolidation]~~ **to be adjusted** are located.

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

Section 1. NRS 473.035 is hereby amended to read as follows:

473.035 1. New territory may be included in any fire protection district organized under this chapter in the manner provided in subsections 2 to ~~[5, inclusive.~~

~~2. Upon receiving a written petition containing a]~~ ***7, inclusive. Any new territory which is proposed to be included in a fire protection district must be contiguous to the district.***

2. The inclusion of new territory in a fire protection district organized under this chapter may be initiated by:

(a) A petition signed by a majority of the owners of the property located within the territory proposed to be included in the district; or

(b) A resolution of the board of county commissioners of the county in which the district is located that includes a description of the territory proposed to be included in the district.

3. The petition must include:

(a) A description of the territory proposed to be included ~~[(which territory must be contiguous to the district), which petition must contain a]~~ ***in the fire protection district; and***

(b) A statement advising the signers that their property will be subject to the levy of a tax for the support of the fire protection district ***.*** ~~[, and be signed by not less than a majority of the property owners within the territory,]~~

4. Upon receipt of the petition or resolution, the State Forester Firewarden shall determine the feasibility of including that territory ***in the fire protection district*** and shall notify the board of directors of the district of his decision.

~~[3.]~~ ***5.*** The board of directors, upon receipt of a notice in writing from the State Forester Firewarden of the decision to include territory in the fire protection district, shall prepare a resolution:

(a) Describing the territory to be included; and

(b) Stating the purpose for its inclusion.

~~[4.]~~ ***6.*** Upon the adoption of the resolution ***,*** the board of directors shall forthwith notify the State Forester Firewarden of the resolution. The territory is ***included*** in the fire protection district from the date of the resolution.

~~[5.]~~ ***7.*** Upon the inclusion of any contiguous territory in a fire protection district ***,*** the State Forester Firewarden shall adopt regulations for the organization of the territory to meet the terms and requirements for federal aid.

Sec. 2. Chapter 474 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***1. A*** ~~*[county]*~~ ***fire protection district organized*** ~~*[pursuant to this chapter may annex all or any part of a fire protection district organized pursuant to]*~~ ***as provided in chapter 473 of NRS*** ~~*[.]*~~ ***may, in the manner provided in this section, be reorganized as an existing or new fire protection district subject to the provisions of:***

(a) NRS 474.010 to 474.450, inclusive; or

(b) NRS 474.460 to 474.540, inclusive.

2. The ~~*[annexation]*~~ ***reorganization of such a district may be initiated by:***

(a) A petition signed by a majority of the owners of the property located within the ~~*[area]*~~ ***district proposed to be*** ~~*[annexed;]*~~ ***reorganized; or***

(b) A resolution of the board of county commissioners of the county in which the district ~~*[organized pursuant to this chapter]*~~ ***proposed to be reorganized is located.***

3. If, after notice and a hearing, the board of county commissioners determines that the proposed ~~*[annexation is feasible and]*~~ ***reorganization is in the best interests of the county and the district, the board*** ~~*[of county commissioners shall adopt and submit to]*~~ ***shall notify the State Forester Firewarden*** ~~*[a petition requesting annexation of the proposed area.*~~

~~*4. Upon receipt of the petition, the]*~~ ***of that determination.***

4. The State Forester Firewarden shall determine whether the ~~*[annexation]*~~ ***reorganization is feasible and shall notify the board of county commissioners, in writing, of his decision. If the State Forester Firewarden***

determines that the reorganization is feasible, he shall further notify the board of county commissioners, in writing, that the petition or resolution, as applicable, proposing the reorganization of the district is approved.

5. Upon receipt of a notice in writing from the State Forester Firewarden that the [annexation] petition or resolution proposing the reorganization is approved, the board of county commissioners shall adopt an ordinance [which must include the name and boundaries of] reorganizing the district [.] as an existing or new fire protection district subject to the provisions of:

(a) NRS 474.010 to 474.450, inclusive; or

(b) NRS 474.460 to 474.540, inclusive.

6. The board of county commissioners shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

7. [The annexation of the proposed area of the district is complete upon the filing of the ordinance pursuant to this section.] All debts, obligations, liabilities and assets of a fire protection district organized as provided in chapter 473 of NRS that is reorganized pursuant to this section must be assumed or taken over by the fire protection district into which that district is reorganized.

8. A district reorganized pursuant to this section as an existing or new fire protection district subject to the provisions of:

(a) NRS 474.010 to 474.450, inclusive, has all of the powers granted by those sections and shall be deemed to have been formed under the provisions of those sections.

(b) NRS 474.460 to 474.540, inclusive, has all of the powers granted by those sections and shall be deemed to have been organized in accordance with NRS 474.460.

Sec. 4. ***1. [Two] The boundaries of two or more contiguous fire protection districts located within a county and organized pursuant to NRS 474.010 or 474.460 may be [consolidated into a fire protection district consisting of] adjusted in the manner provided in this section so that all or any part of the area of [those] one such fire protection [districts.] district is excluded from that district and added to the area of another such fire protection district.***

2. The [consolidation may] adjustment of the boundaries of fire protection districts pursuant to this section must be [initiated] approved by:

(a) A [petition signed by a] majority of the owners of property located within the portions of those districts directly affected by the proposed [to be consolidated; or] adjustment of boundaries; and

(b) [A resolution] Resolution of the board of county commissioners of the county in which the districts are located [if the] , which resolution [is] must also be approved by the governing bodies of the fire protection districts whose boundaries are proposed to be [consolidated.] adjusted.

➥ For the purposes of this subsection, an owner of property located within a fire protection district is "directly affected" by a proposed adjustment of boundaries if the adjustment will cause that property, or other property immediately adjacent to that property, to be excluded from the district in which it is currently located and added to a district other than that in which it is currently located.

3. If, after notice and a hearing, the board of county commissioners determines that the proposed ~~[consolidation]~~ adjustment of boundaries is feasible and in the best interests of the county and the districts whose boundaries are proposed to be ~~[consolidated,]~~ adjusted, the board of county commissioners shall adopt an ordinance ~~[consolidating]~~ adjusting the boundaries of those districts. The ordinance must include the name and boundaries of ~~[the consolidated district.]~~ each district that will result from the adjustment.

4. For the purposes of subsection 3, a board of county commissioners shall not determine that a proposed adjustment of boundaries is feasible and in the best interests of the county and the districts whose boundaries are proposed to be adjusted unless the board concludes, after conducting a reasonable investigation, that:

(a) The total assessed valuation of taxable property in the districts whose boundaries are proposed to be adjusted is substantially equivalent; and

(b) The total ad valorem tax levied within the districts whose boundaries are proposed to be adjusted is substantially equivalent.

5. The board of county commissioners shall cause a copy of ~~[the]~~ any ordinance ~~[,]~~ adopted pursuant to subsection 3 to be certified by the clerk of the board ~~[of county commissioners, to be]~~ and filed immediately for record in the office of the county recorder.

~~*[5. All]*~~

6. If an adjustment of boundaries pursuant to this section causes:

(a) Part of the area of one fire protection district to be excluded from that district and added to the area of another fire protection district, the districts may, but are not required to, enter into such an agreement as they determine equitable to address the apportionment of debts, obligations, liabilities and assets.

(b) All of the area of one fire protection district to be excluded from that district and added to the area of another fire protection district, the debts, obligations, liabilities and assets of the ~~[former districts]~~ district from which the area is excluded must be assumed by the ~~[consolidated]~~ district ~~[.]~~ to which the area is added.

Sec. 5. ~~[NRS 474.325 is hereby amended to read as follows:~~

~~474.325 The boundaries of any county fire protection district formed under NRS 474.010 to 474.450, inclusive, may be altered and new territory annexed thereto, incorporated and included therein, and made a part thereof in the manner provided in :~~

~~*1.* NRS 474.335 to 474.395, inclusive [.]; or~~

~~2. *Section 3 of this act.*~~ **(Deleted by amendment.)**

Sec. 6. The amendatory provisions of this act do not apply to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of a fire protection district, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

Sec. 7. This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Oceguera, Anderson, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 14.

Assemblyman Oceguera moved that the Assembly recess until 4:30 p.m.

Motion carried.

Assembly in recess at 1:30 p.m.

ASSEMBLY IN SESSION

At 4:56 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Joint Resolution No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

HARRY MORTENSON, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 288, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 529, 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 was referred Senate Bill No. 131, 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*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 24, 2007

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 570.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 90, 173, 186, 253, 393, 422.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Concurrent Resolution No. 32—Directing the Legislative Commission to conduct an interim study of statutory legislative committees.

Assemblywoman Koivisto moved that the resolution be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 90.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 173.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 186.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 253.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 393.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 422.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 570.

Assemblyman Oceguera moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 131.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 964.

AN ACT relating to governmental administration; authorizing each county clerk to charge and collect an additional fee to pay for the acquisition and improvement of technology used in the office of the county clerk; ~~[increasing the amount of certain court fees charged and collected by county clerks;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each county clerk to charge and collect certain fees relating to certain civil actions and proceedings in district court. (NRS 19.013-19.0335) Section 2 of this bill ~~[increases certain fees charged and collected by each county clerk and]~~ authorizes each county clerk to charge and collect an additional fee not to exceed $5 for filing and recording a bond of a notary public, per name. The additional fee, if charged and collected, must be credited to an account described in section 1 of this bill. (NRS 19.013) Section 1 provides that if a county clerk charges and collects an additional fee for filing and recording a bond of a notary public, the proceeds must be accounted for separately in the county general fund and the money in the account must be used only to acquire technology for or to improve technology used in the office of the county clerk.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a county clerk imposes an additional fee pursuant to subsection 2 of NRS 19.013, the proceeds collected from such a fee must be accounted for separately in the county general fund. Any interest earned on money in

the account, after deducting any applicable charges, must be credited to the account. Money that remains in the account at the end of a fiscal year does not revert to the county general fund, and the balance in the account must be carried forward to the next fiscal year.

2. The money in the account must be used only to acquire technology for or to improve technology used in the office of the county clerk, including, without limitation, costs related to acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology.

Sec. 2. NRS 19.013 is hereby amended to read as follows:

19.013 1. Except as otherwise provided by specific statute, each county clerk shall charge and collect the following fees:

On the commencement of any action or proceeding in the district court, or on the transfer of any action or proceeding from a district court of another county, except probate or guardianship proceedings, to be paid by the party commencing the action, proceeding or transfer ..... $56 ~~*[$70]*~~

On an appeal to the district court of any case from a justice court or a municipal court, or on the transfer of any case from a justice court or a municipal court ..... 42 ~~*[52]*~~

On the filing of a petition for letters testamentary, letters of administration, setting aside an estate without administration, or a guardianship, which fee includes the court fee prescribed by NRS 19.020, to be paid by the petitioner:

Where the stated value of the estate is more than $2,500 ..... 72 ~~*[85]*~~

Where the stated value of the estate is $2,500 or less, no fee may be charged or collected.

On the filing of a petition to contest any will or codicil, to be paid by the petitioner ..... 44 ~~*[$55]*~~

On the filing of an objection or cross-petition to the appointment of an executor, administrator or guardian, or an objection to the settlement of account or any answer in an estate or guardianship matter ..... 44 ~~*[55]*~~

On the appearance of any defendant or any number of defendants answering jointly, to be paid upon the filing of the first paper in the action by him or them ..... 44 ~~*[55]*~~

For filing a notice of appeal ..... 24 ~~*[30]*~~

For issuing a transcript of judgment and certifying thereto 3

For preparing any copy of any record, proceeding or paper, for each page 1

For each certificate of the clerk, under the seal of the court 3

For examining and certifying to a copy of any paper, record or proceeding prepared by another and presented for his certificate 5

For filing all papers not otherwise provided for, other than papers filed in actions and proceedings in court and papers filed by public officers in their official capacity 5

For issuing any certificate under seal, not otherwise provided for 6
For searching records or files in his office, for each year 1
For filing and recording a bond of a notary public, per name 15
For entering the name of a firm or corporation in the register of the county clerk 20

2. ***A county clerk may charge and collect, in addition to any fee that a county clerk is otherwise authorized to charge and collect, an additional fee not to exceed $5 for filing and recording a bond of a notary public, per name. On or before the fifth day of each month, the county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to section 1 of this act.***

3. Except as otherwise provided by specific statute, all fees prescribed in this section are payable in advance if demanded by the county clerk.

~~[3.]~~ ***4.*** The fees set forth in subsection 1 are payment in full for all services rendered by the county clerk in the case for which the fees are paid, including the preparation of the judgment roll, but the fees do not include payment for typing, copying, certifying or exemplifying or authenticating copies.

~~[4.]~~ ***5.*** No fee may be charged ***to*** any attorney at law admitted to practice in this State for searching records or files in the office of the clerk. No fee may be charged for any services rendered to a defendant or his attorney in any criminal case or in habeas corpus proceedings.

~~[5.]~~ ***6.*** Each county clerk shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected during the preceding month.

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on July 1, 2007 ~~[.]~~ **and expires by limitation on July 1, 2013.**

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 288.

Bill read second time.

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

Amendment No. 980.

AN ACT relating to fire protection districts; requiring the board of directors of a fire protection district created by an election to cooperate with the State Forester Firewarden and certain other agencies to prevent and suppress fires in wild lands; authorizing such a board of directors to appoint a district fire chief; providing that the activities of a fire protection district created by an election are separate from county activities and any other political subdivision in this State; authorizing a board of fire commissioners

to provide emergency medical services within a fire protection district ~~[.]~~ **under certain circumstances;** requiring title to all property acquired by a fire protection district organized by a board of county commissioners to vest in the district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the organization of fire protection districts by an ordinance adopted by a board of county commissioners or by the approval of the voters of a proposed fire protection district. (Chapter 474 of NRS) Under existing law, a fire protection district approved by the voters may include contiguous territory from more than one county. (NRS 474.010) Section 9 of this bill provides that such a fire protection district may ~~[only consist of]~~ **include incorporated** territory within a ~~[single county and eliminates the requirement that the territory be contiguous.]~~ **consolidated municipality, provided that such territory is not included in any other fire protection district. Section 9 also removes the exclusion that had prohibited such a fire protection district from including timberland patrolled by the United States Forest Service.** Sections 2-8 and 15-18 of this bill borrow various existing provisions that are applicable to a fire protection district organized by a board of county commissioners and make them applicable to a fire protection district approved by the voters. ~~[Sections 10-14 and 19 of this bill remove references to a fire protection district that includes territory in more than one county.]~~ Sections 20, 21, 22 and 24 of this bill borrow various existing provisions that are applicable to a fire protection district approved by the voters and make them applicable to a fire protection district organized by a board of county commissioners. Section 25 of this bill restricts existing procedures for the reorganization of a fire protection district to apply only to a fire protection district organized by a board of county commissioners.

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

Section 1. Chapter 474 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***1. A county fire protection district organized pursuant to NRS 474.010 to 474.450, inclusive, and sections 2 to 5, inclusive, of this act, upon its formation:***

(a) Is a political subdivision of this State; and

(b) Has perpetual existence unless dissolved as provided in this chapter.

2. Each such district may:

(a) Sue and be sued, and be a party to suits, actions and proceedings;

(b) Arbitrate claims; and

(c) Contract and be contracted with.

Sec. 3. ***The board of directors of a county fire protection district shall cooperate with the State Forester Firewarden and other agencies as provided in NRS 472.040 to 472.090, inclusive, to prevent and suppress***

fires in wild lands, and may contribute suitable amounts of money from the sums raised as provided in NRS 474.200 for that purpose to cooperating agencies, or may receive contributions from other agencies to be spent for that purpose.

Sec. 4. ***1. The board of directors of a county fire protection district may appoint a district fire chief who shall have adequate training and experience in fire control and who shall hire such employees as are authorized by the board. The district fire chief shall administer all fire control laws in the district and perform such other duties as may be designated by the board of directors. The district fire chief shall coordinate fire protection activities in the district and shall cooperate with all other fire protection agencies.***

2. In lieu of or in addition to the provisions of subsection 1, the board of directors may ~~*[:*~~

~~*(a) Provide]*~~ ***provide fire protection to the county fire protection district by entering into agreements with other agencies as provided by NRS 277.180 and 472.060 to 472.090, inclusive, for the furnishing of such protection to the district.*** ~~*[; or*~~

~~*(b) Support, direct or integrate volunteer fire departments within the county fire protection district for the furnishing of such protection to the district.]*~~

Sec. 5. ***The activities of a county fire protection district are separate from county activities and any other political subdivision in this State.***

Sec. 6. ~~*[The]*~~ ***Except as otherwise provided in subsection 2, the board of fire commissioners of a district organized pursuant to NRS 474.460 may:***

~~*[1.]*~~ ***(a) Provide emergency medical services within the district; and***

~~*[2.]*~~ ***(b) Purchase, acquire by donation or otherwise, lease, operate and maintain ambulances if necessary, and may take out liability and other insurance therefor. The board of fire commissioners may employ trained personnel to operate those vehicles.***

2. The provisions of this section do not allow the board of fire commissioners of a district organized pursuant to NRS 474.460 to provide ambulance service in any area in which a local government, or a person or entity authorized to act on behalf of a local government, has awarded an exclusive franchise for the provision of ambulance service pursuant to NRS 244.187, 268.081, 269.128 or other applicable law.

Sec. 7. ***All accounts, bills and demands against a district organized pursuant to NRS 474.460 must be audited, allowed and paid by the board of fire commissioners by warrants drawn on the county treasurer or the treasurer of the district. The county treasurer or, if authorized by the board of county commissioners and the board of fire commissioners, the treasurer of the district shall pay them in the order in which they are presented.***

Sec. 8. ***The title to all property which may have been acquired for a district organized pursuant to NRS 474.460 must be vested in the district.***

Sec. 9. NRS 474.010 is hereby amended to read as follows:

474.010 Contiguous unincorporated ~~*[Unincorporated]*~~ territory lying within one or more counties ~~*[a county]*~~ ***or incorporated territory lying within a consolidated municipality*** and not included in any other fire protection district ~~[, and not including timberland patrolled by the United States Forest Service or in accordance with the rules and regulations of the United States Forest Service,]~~ may be formed into a county fire protection district in the manner and under the proceedings set forth in NRS 474.010 to 474.450, inclusive ~~[.]~~ ***, and sections 2 to 5, inclusive, of this act.***

Sec. 10. NRS 474.020 is hereby amended to read as follows:

474.020 1. When 25 percent or more of the holders of title or evidence of title to lands lying in one body, whose names appear as such upon the last county assessment roll, ~~[shall]~~ present a petition to the board of county commissioners of the county in which the land or the greater portion thereof ~~[lies,]~~ ***is located,*** setting forth the exterior boundaries of the proposed district and asking that the district so described be formed into a county fire protection district under the provisions of NRS 474.010 to 474.450, inclusive, ***and sections 2 to 5, inclusive, of this act,*** the board of county commissioners shall pass a resolution declaring the board's intention to form or organize such territory into a county fire protection district, naming the district and describing its exterior boundaries.

2. The resolution ~~[shall:]~~ ***must:***

(a) Fix a time and place for the hearing of the matter not less than 30 days after its adoption.

(b) Direct the clerk of the board of county commissioners to publish the notice of intention of the board of county commissioners to form ~~[such]~~ ***the*** county fire protection district, and of the time and place fixed for the hearing, and ~~[shall]~~ ***must*** designate that publication ~~[shall]~~ ***must*** be in ~~[some]~~ ***a*** newspaper of general circulation published in the county and circulated in the proposed county fire protection district, or if there is no newspaper so published and circulated **,** then in ~~[some]~~ ***a*** newspaper of general circulation circulated in the proposed district.

Sec. 11. NRS 474.030 is hereby amended to read as follows:

474.030 The notice ~~[shall:]~~ ***must:***

1. Be headed "Notice of the proposed formation of fire protection district in ..... County ~~*[" (stating]*~~ ***," stating*** the name of the proposed district and the name of the county or, if there ~~[be]~~ ***is*** more than one ~~[,]~~ ***county,*** the name of the counties in which the proposed district is located ***.*** ~~[),]~~ ~~["]~~

2. State the fact that the board of county commissioners ~~[of the county]~~ has fixed the time and place ~~[(which shall]~~ ~~*[, which must be stated in the notice ,]*~~ ~~[)]~~ for a hearing on the matter of the formation of a county fire protection district ~~[.]~~ ***, and must set forth the time and place of that hearing.***

3. Describe the territory or ~~[shall]~~ specify the exterior boundaries of the territory proposed to be organized into a fire protection district, which boundaries, so far as practicable, ~~[shall]~~ ***must*** be the centerlines of highways.

4. Be published once a week for 2 successive weeks ~~[prior to]~~ ***before*** the time fixed for the hearing in the newspaper designated by the board of county commissioners.

Sec. 12. NRS 474.080 is hereby amended to read as follows:

474.080 1. The board of county commissioners shall submit the question of whether the proposed district shall be organized pursuant to the provisions of NRS 474.010 to 474.450, inclusive, ***and sections 2 to 5, inclusive, of this act*** to the electors of the proposed district at the next primary or general election.

2. The notice must:

(a) Designate a name for the proposed district.

(b) Describe the boundaries of the precincts established therein, ~~[when]~~ ***if*** more than one, together with a designation of the polling places and board of election for each precinct.

(c) Be published once a week for at least 3 weeks ~~[previous to]~~ ***before*** the election in a newspaper published or circulated within the boundaries of the proposed district and published within the county ***or counties*** in which the ~~[petition for the organization of the district was presented.]~~ ***proposed district is located.***

(d) Require the electors to cast ballots, which must contain the words: "..... County fire protection district—Yes," or "..... County fire protection district—No," or words equivalent thereto, and also the names of one or more persons , ~~[(]~~ according to the division of the proposed district as prayed for in the petition and ordered by the board ,~~[)]~~ to be voted for to fill the office of director.

Sec. 13. NRS 474.110 is hereby amended to read as follows:

474.110 1. The election having been held, the board of county commissioners shall, on the first Monday succeeding ~~[such]~~ ***the*** election, if then in session, or at its next succeeding general or special session, proceed to canvass the votes cast ~~[thereat.]~~ ***at the election.***

2. If upon such canvass it appears that a majority of all votes cast in the district , ~~[(]~~ and in each portion of the counties included in the district ~~[in case]~~ ***if*** lands in more than one county are included therein , ~~[)]~~ are in favor of the formation of the district, the board shall, by an order entered in its minutes, declare:

(a) Such territory ~~[duly]~~ organized as a county fire protection district under the name theretofore designated; and

(b) The persons receiving, respectively, the highest number of votes for the directors to be ~~[duly]~~ elected to ~~[such]~~ ***those*** offices.

Sec. 14. NRS 474.120 is hereby amended to read as follows:

474.120 1. The board ***of county commissioners*** shall then cause a copy of such order, ~~[duly]~~ certified by the clerk of the board , ~~[of county~~

~~commissioners,]~~ to be immediately filed for record in the office of the county recorder of ~~[any]~~ ***each*** county in which any portion of the lands ~~[embraced in such]~~ ***included in the*** district are ~~[situated,]~~ ***located,*** and must also immediately forward a copy thereof to the clerk of the board of county commissioners of each ~~[of such counties.~~

~~2. No]~~ ***such county.***

2. The board of county commissioners ~~[of the county]~~ shall ~~[,]~~ ***not,*** after the date of the organization of the district, allow another fire protection district to be formed ~~[, including any portion of such lands,]~~ ***within the district*** without the consent of the owners thereof.

3. From and after such filing, the organization of the district ~~[shall be]~~ ***is*** complete.

Sec. 15. NRS 474.160 is hereby amended to read as follows:

474.160 The board of directors shall:

1. Manage and conduct the business and affairs of the district.

2. ~~[Make]~~ ***Adopt*** and enforce all rules and regulations necessary for the administration and government of the district and for the furnishing of fire protection thereto, which may include regulations relating to fire prevention. The regulations may include provisions that are designed to protect life and property from:

(a) The hazards of fire and explosion resulting from the storage, handling and use of hazardous substances, materials and devices; and

(b) Hazardous conditions relating to the use or occupancy of any premises.

➥ Any regulation concerning hazardous substances, materials or devices adopted pursuant to this section must be consistent with any plan or ordinance concerning ~~[such]~~ ***those*** substances, materials or devices that is required by the Federal Government and has been adopted by ~~[a]~~ ***the*** board of county commissioners.

3. Organize, regulate, establish and disband fire companies, departments or volunteer fire departments for the district.

4. Make and execute in the name of the district all necessary contracts.

5. Adopt a seal for the district to be used in the attestation of proper documents.

6. Provide for the payment from the proper fund of ***the salaries of employees of the district and*** all the debts and just claims against the district.

7. Employ agents and employees for the district sufficient to maintain and operate the property acquired for the purposes of the district.

8. Acquire real or personal property necessary for the purposes of the district and dispose of that property when no longer needed.

9. Construct any necessary structures.

10. Acquire, hold and possess, either by donation or purchase, in the name and on behalf of the district any land or other property necessary for the purpose of the district.

11. Eliminate and remove fire hazards within the district ~~[wherever]~~ ***if*** practicable and possible, whether on private or public premises, and to that end the board may clear the public highways and private lands of dry grass, stubble, brush, rubbish or other inflammable material in its judgment constituting a fire hazard.

12. Perform all other acts necessary, proper and convenient to accomplish the purposes of NRS 474.010 to 474.450, inclusive ~~[.]~~ ***, and sections 2 to 5, inclusive, of this act.***

Sec. 16. NRS 474.180 is hereby amended to read as follows:

474.180 ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** board of directors may ~~[purchase,]~~ ***:***

~~*[1.]*~~ ***(a) Provide emergency medical services within the district; and***

~~*[2.]*~~ ***(b) Purchase,*** acquire by donation or otherwise, lease, operate and maintain ambulances whenever necessary, and may take out liability and other insurance therefor. The board of directors may employ trained personnel to operate ~~[these]~~ ***those*** vehicles.

2. The provisions of this section do not allow the board of directors to provide ambulance service in any area in which a local government, or a person or entity authorized to act on behalf of a local government, has awarded an exclusive franchise for the provision of ambulance service pursuant to NRS 244.187, 268.081, 269.128 or other applicable law.

Sec. 17. NRS 474.190 is hereby amended to read as follows:

474.190 1. Subject to the provisions of subsection ~~[2,]~~ ***3,*** the board of directors of each county fire protection district shall prepare annual budgets in accordance with NRS 354.470 to 354.626, inclusive.

2. ***The budget must be based on estimates of the amount of money that will be needed to defray the expenses of the district and to meet unforeseen emergencies and the amount of a fire protection tax sufficient, together with the revenue which will result from application of the rate to the net proceeds of minerals, to raise such sums.***

3. The amount of money to be raised for the purpose of establishing, equipping and maintaining the district with fire-fighting facilities ~~[shall]~~ ***must*** not in any 1 year exceed 1 percent of the ~~[assessable property within the district.~~

~~3. In determining the tax to be levied to raise the amount of money required by such budget within such limitation, the board of county commissioners shall prorate 80 percent of the amount of the tax upon the assessed value of improvements and personal property upon each parcel of land and 20 percent upon the assessed value of each parcel of land, if upon the formation of the district a provision for such procedure was included in the notice to create the district approved by the property owners, or if a petition requesting such procedure, signed by not less than a majority of the property owners within the district, is presented to the board prior to January 20.~~] ***assessed value of the property described in NRS 474.200 and any net proceeds of minerals derived from within the boundaries of the district.***

Sec. 18. NRS 474.200 is hereby amended to read as follows:

474.200 1. At the time of making the levy of county taxes for that year, the boards ~~*[board]*~~ of county commissioners shall levy the tax ~~[certified]~~ ***established pursuant to NRS 474.190*** upon all property, both real and personal, subject to taxation within the boundaries of the district. Any tax levied on interstate or intercounty telephone lines, power lines and other public utility lines as authorized in this section must be based upon valuations as established by the Nevada Tax Commission pursuant to the provisions of NRS 361.315 to 361.330, inclusive.

2. When levied, the tax must be entered upon the assessment rolls and collected in the same manner as state and county taxes. ***Taxes may be paid in four approximately equal installments at the times specified in NRS 361.483, and the same penalties as specified in NRS 361.483 must be added for failure to pay the taxes.***

3. When the tax is collected it must be placed in the treasury of the county in which the greater portion of the ***county fire protection*** district is located, to the credit of the ~~[current expense fund of the district, and may be used only for the purpose for which it was raised.]~~ ~~*[county fire protection]*~~ ***district. The treasurer of the district shall keep two separate funds for each district, one to be known as the district fire protection operating fund and one to be known as the district emergency fund. The money collected to defray the expenses of the district must be deposited in the district fire protection operating fund, and the money collected to meet unforeseen emergencies must be deposited in the district emergency fund. The district emergency fund must be used solely for emergencies and must not be used for regular operating expenses. The money deposited in the district emergency fund must not exceed the sum of $1,000,000. Any interest earned on the money in the district emergency fund that causes the balance in that fund to exceed $1,000,000 must be credited to the district fire protection operating fund.***

4. For the purposes of subsection 3, an emergency includes, without limitation, any event that:

(a) Causes widespread or severe damage to property or injury to or the death of persons within the district;

(b) As determined by the district fire chief, requires immediate action to protect the health, safety and welfare of persons who reside within the district; and

(c) Requires the district to provide money to obtain a matching grant from a state agency or an agency of the Federal Government to repair damage caused by a natural disaster that occurred within the district.

Sec. 19. NRS 474.300 is hereby amended to read as follows:

474.300 1. In any county fire protection district availing itself of the privileges of this section and NRS 474.220 and 474.310, the board of directors of ~~[such]~~ ***the*** district annually shall determine the tax necessary for the payment of interest and principal of such bonds.

2. The amount of the tax ~~[shall]~~ ***must*** be certified to the boards ~~*[board]*~~ of county commissioners of the counties in which any portion of the district is located, and ~~[such]~~ ***the*** board of county commissioners shall, at the time of making the levy of county taxes for that year, levy the tax certified upon all the real property, together with the improvements thereon, in the district.

3. When levied, the tax ~~[shall]~~ ***must*** be entered on the assessment rolls and collected in the same manner as state and county taxes.

4. When the tax is collected it ~~[shall]~~ ***must*** be placed in the treasury of the county in which the greater portion of the district is located in a special fund for the payment of principal and interest of the bonds. Payments therefrom ~~[shall]~~ ***must*** be made according to the terms of the bonds.

Sec. 20. NRS 474.460 is hereby amended to read as follows:

474.460 1. All territory in each county ***or consolidated municipality*** not included in any other fire protection district, except incorporated areas ~~[,]~~ ***other than consolidated municipalities,*** may be organized by ordinance by the board of county commissioners of the county in which ~~[such]~~ ***that*** territory lies into as many fire protection districts as necessary to provide for the prevention and extinguishment of fires in the county, until such time as ~~[such]~~ ***that*** territory may be included in another fire protection district formed in accordance with the provisions of chapter 473 of NRS, or NRS 474.010 to 474.450, inclusive ~~[.]~~ ***, and sections 2 to 5, inclusive, of this act.***

2. Each such district ~~[shall:~~

~~(a) Be a body corporate and politic;~~

~~(b) Be]~~ ***:***

(a) Is a political subdivision of the State; and

~~[(c) Have]~~

(b) Has perpetual existence unless dissolved as provided in this chapter.

3. Each such district may:

(a) ~~[Have and use a corporate seal;~~

~~(b)]~~ Sue and be sued, and be a party to suits, actions and proceedings;

~~[(c)]~~ ***(b)*** Arbitrate claims; and

~~[(d)]~~ ***(c)*** Contract and be contracted with.

4. The board of county commissioners ~~[of the county]~~ organizing each such district ~~[shall]~~ ***is*** ex officio ~~[be]~~ the governing body of each such district. The governing body ~~[shall]~~ ***must*** be known as the board of fire commissioners.

5. The chairman of the board of county commissioners ~~[shall]~~ ***is*** ex officio ~~[be]~~ ***the*** chairman of each such district.

6. The county clerk ~~[shall]~~ ***is*** ex officio ~~[be]~~ ***the*** clerk of each such district.

7. ~~[The]~~ ***Unless the board of fire commissioners employs a treasurer, the*** county treasurer ~~[shall]~~ ***is*** ex officio ~~[be]~~ ***the*** treasurer of each such district.

Sec. 21. NRS 474.470 is hereby amended to read as follows:

474.470 The board of fire commissioners shall:

1. Manage and conduct the business and affairs of districts organized pursuant to the provisions of NRS 474.460.

2. ~~[Promulgate]~~ ***Adopt*** and enforce all ***rules and*** regulations necessary for the administration and government of the districts and for the furnishing of fire protection ~~[.]~~ ***thereto, which may include regulations relating to emergency medical services and fire prevention. The regulations may include provisions that are designed to protect life and property from:***

(a) The hazards of fire and explosion resulting from the storage, handling and use of hazardous substances, materials and devices; and

(b) Hazardous conditions relating to the use or occupancy of any premises.

➥ Any regulation concerning hazardous substances, materials or devices adopted pursuant to this section must be consistent with any plan or ordinance concerning those substances, materials or devices that is required by the Federal Government and has been adopted by the board of county commissioners.

3. Organize, regulate, establish and disband fire companies, departments or volunteer fire departments for the districts.

4. Provide for the payment of salaries to the personnel of ~~[such]~~ ***those*** fire companies or fire departments.

5. Provide for payment from the proper fund of all the debts and just claims against the districts.

6. Employ agents and employees for the districts sufficient to maintain and operate the property acquired for the purposes of the districts.

7. Acquire real or personal property necessary for the purposes of the districts and dispose of the ~~[same when]~~ ***property if*** no longer needed.

8. Construct any necessary structures.

9. Acquire, hold and possess, ~~[either]~~ by donation or purchase, any land or other property necessary for the purpose of the districts.

10. Eliminate and remove fire hazards from the districts ~~[wherever]~~ ***if*** practicable and possible, whether on private or public premises, and to that end the board of fire commissioners may clear the public highways and private lands of dry grass, stubble, brush, rubbish or other inflammable material in its judgment constituting a fire hazard.

11. Perform all other acts necessary, proper and convenient to accomplish the purposes of NRS 474.460 to 474.540, inclusive ~~[.]~~ ***, and sections 6, 7 and 8 of this act.***

Sec. 21.5. NRS 474.480 is hereby amended to read as follows:

474.480 1. The board of fire commissioners shall plan for the prevention and extinguishment of fires in the territory of the county described by NRS 474.460, in cooperation with the State Forester Firewarden to coordinate the fire protection activities of the districts with the fire protection provided by the Division of Forestry of the State Department of Conservation and Natural Resources and by federal agencies, in order that the State Forester Firewarden may establish a statewide plan for the

prevention and control of large fires, mutual aid among the districts, training of personnel, supply, finance and other purposes to promote fire protection on a statewide basis.

2. Through inspection **,** ~~[and recommendation,]~~ the State Forester Firewarden ~~[shall standardize the]~~ ***may recommend standardization of*** fire protection equipment and facilities of the districts to facilitate mutual aid among the districts.

Sec. 22. NRS 474.490 is hereby amended to read as follows:

474.490 The board of fire commissioners shall cooperate with ***the State Forester Firewarden and*** other agencies as provided in NRS 472.040 to 472.090, inclusive, to prevent and suppress fires in wild lands, and may contribute suitable amounts of money from the sums raised as provided in NRS 474.510 for ~~[such]~~ ***that*** purpose to cooperating agencies, or may receive contributions from other agencies to be spent for ~~[such]~~ ***that*** purpose.

Sec. 23. NRS 474.500 is hereby amended to read as follows:

474.500 1. The board of fire commissioners may appoint a district fire chief who shall have adequate training and experience in fire control and who shall hire such employees as are authorized by the board. The district fire chief shall administer all fire control laws in the territory of the county described by NRS 474.460 and perform such other duties as may be designated by the board of fire commissioners and the State Forester Firewarden. The district fire chief shall coordinate fire protection activities in the district and shall cooperate with all other existing fire protection agencies and with the State Forester Firewarden for the standardization of equipment and facilities.

2. In lieu of or in addition to the provisions of subsection 1, the board of fire commissioners may ~~[:~~

~~(a) Provide]~~ ***provide*** the fire protection required by NRS 474.460 to 474.540, inclusive, ***and sections 6, 7 and 8 of this act*** to the districts by entering into agreements with other agencies as provided by NRS 472.060 to 472.090, inclusive, and 277.180, for the furnishing of such protection to the districts**.** ~~[; or~~

~~(b) Support, *direct or integrate* volunteer fire departments within districts organized under the provisions of NRS 474.460 to 474.540, inclusive, *and sections 6, 7 and 8 of this act* for the furnishing of such protection to the districts.]~~

Sec. 24. NRS 474.510 is hereby amended to read as follows:

474.510 1. The board of fire commissioners shall prepare ~~[a]~~ ***an annual*** budget ***in accordance with the provisions of NRS 354.470 to 354.626, inclusive,*** for each district organized in accordance with NRS 474.460**.** ~~[, estimating]~~

2. Each budget must be based on estimates of the amount of money which will be needed to defray the expenses of the district and to meet unforeseen ~~[fire emergencies, and to determine]~~ ***emergencies and*** the amount of a fire protection tax sufficient, together with the revenue which will result

from application of the rate to the net proceeds of minerals, to raise such sums.

~~[2.]~~ ***3.*** At the time of making the levy of county taxes for the year, the board of county commissioners shall levy the tax provided by subsection 1, upon all property, both real and personal, subject to taxation within the boundaries of the district. Any tax levied on interstate or intercounty telephone lines, power lines and other public utility lines as authorized in this section must be based upon valuations established by the Nevada Tax Commission pursuant to the provisions of NRS 361.315 to 361.330, inclusive.

~~[3.]~~ ***4.*** The amount of tax to be collected for the purposes of this section must not exceed, in any 1 year, 1 percent of the value of the property described in subsection ~~[2]~~ ***3*** and any net proceeds of minerals derived from within the boundaries of the district.

~~[4.]~~ ***5.*** If levied, the tax must be entered upon the assessment roll and collected in the same manner as state and county taxes. Taxes may be paid in four approximately equal installments at the times specified in NRS 361.483 ***,*** and the same penalties as specified in NRS 361.483 must be added for failure to pay the taxes.

~~[5.]~~ ***6.*** For the purposes of NRS 474.460 to 474.550, inclusive, ***and sections 6, 7 and 8 of this act,*** the ~~[county]~~ treasurer ***of the district*** shall keep two separate funds for each district, one to be known as the district fire protection operating fund and one to be known as the district ~~[fire]~~ emergency fund. The ~~[sums]~~ ***money*** collected to defray the expenses of any district organized pursuant to NRS 474.460 must be deposited in the district fire protection operating fund, and the ~~[sums]~~ ***money*** collected to meet unforeseen emergencies must be deposited in the district ~~[fire]~~ emergency fund. The district ~~[fire]~~ emergency fund must be used solely for emergencies and must not be used for regular operating expenses. The money deposited in the district ~~[fire]~~ emergency fund must not exceed the sum of $1,000,000. Any interest earned on the money in the district ~~[fire]~~ emergency fund that causes the balance in that fund to exceed $1,000,000 must be credited to the district fire protection operating fund.

7. For the purposes of subsection 6, an emergency includes, without limitation, any event that:

(a) Causes widespread or severe damage to property or injury to or the death of persons within the district;

(b) As determined by the district fire chief, requires immediate action to protect the health, safety and welfare of persons who reside within the district; and

(c) Requires the district to provide money to obtain a matching grant from an agency of the Federal Government to repair damage caused by a natural disaster that occurred within the district.

Sec. 25. NRS 474.560 is hereby amended to read as follows:

474.560 1. A fire protection district organized pursuant to ~~[this chapter]~~ ***NRS 474.460*** may reorganize as a district created wholly or in part for the purpose of furnishing fire protection facilities pursuant to chapter 318 of NRS.

2. ~~[Such]~~ ***The*** reorganization may be initiated by:

(a) A petition signed by a majority of the owners of property located within the district; or

(b) A resolution of the board of county commissioners of the county in which the district is located.

3. If the board of county commissioners determines, after notice and hearing, that ~~[such]~~ ***the*** reorganization is feasible and in the best interests of the county and the district, the board of county commissioners shall adopt an ordinance reorganizing the district pursuant to chapter 318 of NRS.

4. All debts, obligations, liabilities and assets of the former district ~~[shall]~~ ***must*** be assumed or taken over by the reorganized district.

Sec. 26. (Deleted by amendment.)

Sec. 27. This act becomes effective on July 1, 2007.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 529.

Bill read second time.

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

Amendment No. 985.

AN ACT relating to Medicaid; revising certain provisions concerning the recovery from recipients or third parties of certain costs for Medicaid paid by the Department of Health and Human Services; revising certain provisions concerning assessments on nursing facilities; revising certain provisions concerning liability for the submission of a false claim to the State or a local government; **providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the Department of Health and Human Services is subrogated to the right of a recipient of Medicaid when the recipient incurs costs for medical services which are payable by the Department under circumstances which create legal liability for such costs in a third party. (NRS 422.293) Sections ~~[2-10]~~ **3, 4, 9 and 10** of this bill revise certain provisions concerning the recovery of such costs by the Department and impose liability for such costs on certain persons who do not comply with the procedures established to protect the right of the Department to recover benefits paid by Medicaid.

Existing law provides for the assessment of fees on nursing facilities to increase the quality of nursing care. (NRS 422.3755-422.379) Sections ~~[12~~

~~and]~~ 13 **and 14** of this bill revise the determination of the amount of the fees to comply with federal law and to allow the recoupment of the fees and any administrative penalties from payments made pursuant to the Medicaid program.

The Federal Deficit Reduction Act of 2005, Public Law 109-171, enacted certain provisions concerning state plans for Medicaid. Section 6031 of the Federal Deficit Reduction Act provides financial incentives for states that enact laws establishing liability for false or fraudulent claims made to the State Plan for Medicaid. To be eligible for these financial incentives, the laws of a state must contain provisions that are at least as effective at rewarding and facilitating qui tam actions for false or fraudulent claims as those described in the Federal False Claims Act, 31 U.S.C. §§ 3730-3732. Sections ~~[21-25]~~ **23-27** of this bill amend existing law concerning the filing of false or fraudulent claims to comply with the provisions of section 6031 of the Federal Deficit Reduction Act. (NRS 357.040, 357.070, 357.080, 357.110, 357.170) **Sections 11 and 15 of this bill provide for the recovery of benefits and for criminal penalties for certain fraudulent acts related to public assistance. (NRS 422.29304, 422.410)**

Sections ~~[29-34]~~ **31-36** of this bill amend existing law to comply with the requirements of section 6035 of the Federal Deficit Reduction Act concerning certain providers of health insurance. Sections ~~[29-34]~~ **31-36** require providers of health insurance to provide certain information concerning a person who is eligible for assistance under Medicaid to the State upon request. Sections ~~[29-34]~~ **31-36** also require providers of health insurance to respond to inquiries by the State concerning a claim for payment for medical assistance not later than 3 years after the date of provision of the medical services. Sections ~~[29-34]~~ **31-36** require providers of health insurance to agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim or the form of documentation submitted if the State submits the claim not later than 3 years after the date of the provision of medical assistance and the State commences any action to enforce its rights with respect to the claim not later than 6 years after submission of the claim. (NRS 689A.430, 689B.300, 695A.151, 695B.340, 695C.163, 695F.440)

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ~~*[In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in NRS 422.293, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full.*~~

~~*1. Before any portion of the proceeds of any recovery or settlement is disbursed to the recipient, his successors in interest or his attorney; and*~~

~~*2. Not later than 30 days after the proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney,*~~

~~*→ except that the date on which such a lien must be satisfied in full may be changed by consent of the Department and the recipient, his successors in interest or his attorney. The Department shall not refuse to provide consent without good cause.]*~~ **(Deleted by amendment.)**

Sec. 3. ***1. A recipient*** ~~*[who asserts an action or]*~~ ***, upon assertion of a claim against a third party to which the Department is subrogated pursuant to NRS 422.293,*** ~~*[his successor in interest, his guardian]*~~ ***or his attorney , upon agreeing to represent such a recipient, shall provide written notice to the Department*** ~~*[:*~~

~~*(a) Upon the filing of a claim against a third party;*~~

~~*(b) Upon entering into the negotiation of a settlement with a third party or the third party's insurer;*~~

~~*(c) Upon intervention in or consolidation of any action against a third party; and*~~

~~*(d) At least 30 days before the entry of any judgment, award, settlement or release of liability in any action or claim to which the Department is subrogated pursuant to NRS 422.293.]*~~ ***in the manner provided in subsection 2.***

2. The notice provided pursuant to subsection 1 must include, without limitation:

(a) The name of the recipient;

(b) The social security number of the recipient;

(c) The date of birth of the recipient;

(d) The name of the attorney of the recipient, if applicable;

(e) The name of any person against whom the recipient is making a claim, if known;

(f) The name of any insurer of any person against whom the recipient is making a claim, if known;

(g) The date of the incident giving rise to the claim; and

(h) A short statement identifying the nature of the recipient's claim or the terms of any settlement, judgment or award.

3. Any statute of limitations applicable to any claim or action by the Department is tolled until such time as the Department receives the notice required by this section.

4. As used in this section, "claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

Sec. 4. ***Upon receiving the notice required pursuant to section 3 of this act, the Department shall , within 30 days, provide written notice to the***

recipient ~~[, his successors in interest]~~ or his attorney and to the third party. The written notice must include, without limitation, the name of the recipient and the amount of the Department's lien. No lien created pursuant to ~~[section 2 of this act]~~ NRS 422.293 is enforceable unless written notice is first given to the person against whom the lien is asserted ~~[.]~~ or his attorney.

Sec. 5. ~~*[1. The Department may bring an action in any district court in this State to enforce its rights under NRS 422.293 and sections 2 to 9, inclusive, of this act not less than 30 days after providing written notice to a person who is liable to the Department pursuant to section 9 of this act.*~~

~~*2. The Department shall enforce its rights under NRS 422.293 and sections 2 to 9, inclusive, of this act and may enter into a contract for the recovery of any claim or right of indemnity pursuant to NRS 422.293 and sections 2 to 9, inclusive, of this act. In enforcing its rights under this section, the Department may:*~~

~~*(a) Allow the recipient, in conjunction with his own claim, to proceed on behalf of the Department in prosecuting the Department's claim for the unreimbursed value or cost of the medical services provided;*~~

~~*(b) Intervene or join in any claim or action brought by a recipient;*~~

~~*(c) Prosecute a claim or action on behalf of the Department or the recipient, alone or in conjunction with the recipient; or*~~

~~*(d) Compromise, settle or release any claim against a third party.]*~~

(Deleted by amendment.)

Sec. 6. ~~*[1. If the Department receives notice pursuant to section 3 of this act, the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.*~~

~~*2. The attorney of a recipient:*~~

~~*(a) Shall not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection 1.*~~

~~*(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien authorized by the Director or his designated representative pursuant to subsection 1.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. The Department's right to recover from any third party pursuant to NRS 422.293 and sections 2 to 9, inclusive, of this act is independent of any right of the recipient to recover. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by the recipient is binding on the Department against a third party unless the Department joins in the release or satisfaction or executes a release of the lien. A release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by the recipient without prior notification to and*~~

~~*approval of the Department constitutes conclusive evidence of the liability of the third party in any claim by the Department against the third party. In prosecuting such a claim, the Department must establish only the amount and accuracy of its claim relating to the payment of medical services.*~~

~~*2. In any claim or action for the recovery of the costs of medical services paid to or on behalf of a recipient in which the Department is named to be a plaintiff, the Department may recover the full value of the Department's lien created pursuant to section 2 of this act.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[An action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, must include a claim for medical expenses incurred by the Department. In any recovery in an action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, not less than the first one-third portion of any settlement, claim or judgment must be designated to be medical expenses. The Department shall recover its claim from the portion of the settlement, claim or judgment designated as medical expenses. Except as otherwise provided in section 6 of this act, the Department may recover the lesser of:*~~

~~*1. One-third of the entire settlement, claim or judgment; or*~~

~~*2. The full value of the Department's lien created pursuant to section 2 of this act.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~*[Any]*~~

1. Except as otherwise provided in subsection 2, any person who fails to comply with the provisions of NRS 422.293 and ~~*[sections 2 to 9, inclusive,]*~~ ***section 3 of this act is liable to the Department for:***

~~*[1.]*~~ ***(a) The total amount of the Department's lien created pursuant to*** ~~*[section 2 of this act;*~~

~~*2. A civil penalty equal to 10 percent of the amount of the Department's lien; and*~~

~~*3.]*~~ ***NRS 422.293; and***

(b) Any attorney's fees and litigation expenses incurred by the Department in enforcing the Department's rights pursuant to NRS 422.293 and ~~*[sections 2 to 9, inclusive,]*~~ ***section 3 of this act.***

2. A person other than the recipient is not liable to the Department if the court determines that the failure to provide notice was caused by excusable neglect.

Sec. 10. NRS 422.293 is hereby amended to read as follows:

422.293 1. When a recipient of Medicaid or a recipient of insurance provided pursuant to the Children's Health Insurance Program incurs an illness or injury for which medical services are payable by the Department and which is incurred under circumstances creating a legal liability in some person other than the recipient or a division of the Department to pay all or part of the costs of such ***medical*** services, the Department is subrogated to the right of the recipient to the extent of all such ***medical*** costs ~~*[,]*~~ and may

join or intervene in any action by the recipient or his successors in interest to enforce such legal liability.

2. If a recipient or his successors in interest fail or refuse to commence an action to enforce the legal liability, the Department may commence an independent action, after notice to the recipient or his successors in interest, to recover all ***medical*** costs to which it is entitled. In any such action by the Department, the recipient or his successors in interest may be joined as third-party defendants.

3. In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in subsection 1, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full, unless reduced pursuant to subsection ~~[5,]~~ ***4,*** at such time as:

(a) The proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney; and

(b) A dismissal by any court of any action brought to enforce the legal liability established by subsection 1.

~~[➥ No such lien is enforceable unless written notice is first given to the person against whom the lien is asserted.]~~

4. ~~[The recipient or his successors in interest shall notify the Department in writing before entering any settlement agreement or commencing any action to enforce the legal liability referred to in subsection 1. Except if extraordinary circumstances exist, a person who fails to comply with the provisions of this subsection shall be deemed to have waived any consideration by the Director or his designated representative of a reduction of the amount of the lien pursuant to subsection 5 and shall pay to the Department all costs to which it is entitled and its court costs and attorney's fees.~~

~~5.]~~ If the Department receives notice pursuant to ~~[subsection 4,]~~ ***section 3 of this act,*** the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.

~~[6.]~~ ***5.*** The attorney of a ~~[recipient:~~

~~(a) Shall]~~ ***recipient shall*** not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection ~~[5.~~

~~(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien authorized by the Director or his designated representative pursuant to subsection 5.]~~ ***4.***

Sec. 11. **NRS 422.29304 is hereby amended to read as follows:**

422.29304 1. Except as otherwise provided in this section, the Department shall, to the extent that it is not prohibited by federal law,

recover from a recipient of public assistance, the estate of the recipient, the undivided estate of a recipient of Medicaid or a person who signed the application for public assistance ***or admission to a nursing facility*** on behalf of the recipient an amount not to exceed the amount of public assistance incorrectly paid to the recipient, if the person who signed the application:

(a) Failed to report any required information to the Department ***or the nursing facility*** that the person knew at the time he signed the application; ~~[or]~~

(b) ***Refused to provide financial information regarding the recipient's income and assets, including, without limitation, information regarding any transfers or assignments of income or assets;***

(c) Concealed information regarding the existence, transfer or disposition of the recipient's income and assets with the intent of enabling a recipient to meet any eligibility requirement for public assistance;

(d) Made any false representation regarding the recipient's income and assets, including, without limitation, any information regarding any transfers or assignments of income or assets; or

(e) Failed to report to the Department ***or the nursing facility*** within the period allowed by the Department any required information that the person obtained after he filed the application.

2. Except as otherwise provided in this section, a recipient of incorrectly paid public assistance, the undivided estate of a recipient of Medicaid or a person who signed the application for public benefits ***or admission to a nursing facility*** on behalf of the recipient shall reimburse the Department or appropriate state agency for the value of the incorrectly paid public assistance.

3. The Director or his designee may, to the extent that it is not prohibited by federal law, determine the amount of, and settle, adjust, compromise or deny a claim against a recipient of public assistance, the estate of the recipient, the undivided estate of a recipient of Medicaid or a person who signed the application for public assistance ***or admission to a nursing facility*** on behalf of the recipient.

4. The Director may, to the extent that it is not prohibited by federal law, waive the repayment of public assistance incorrectly paid to a recipient if the incorrect payment was not the result of an intentional misrepresentation or omission by the recipient and if repayment would cause an undue hardship to the recipient. The Director shall, by regulation, establish the terms and conditions of such a waiver, including, without limitation, the circumstances that constitute undue hardship.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 422.29306 is hereby amended to read as follows:

422.29306 1. The Department may, to the extent not prohibited by federal law, petition for the imposition of a lien pursuant to the provisions of NRS 108.850 against real or personal property of a recipient of Medicaid as follows:

(a) The Department may obtain a lien against a recipient's property, both real or personal, before or after his death in the amount of assistance paid or to be paid on his behalf if the court determines that assistance was incorrectly paid for the recipient.

(b) The Department may seek a lien against the real property of a recipient at any age before his death in the amount of assistance paid or to be paid for him if he is an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution and the Department determines, after notice and opportunity for a hearing in accordance with applicable regulations, that the recipient cannot reasonably be expected to be discharged and return home.

2. No lien may be placed on a recipient's home pursuant to paragraph (b) of subsection 1 for assistance correctly paid if:

(a) His spouse;

(b) His child who is under 21 years of age, blind or disabled as determined in accordance with 42 U.S.C. § 1382c; or

(c) His brother or sister who is an owner or part owner of the home and who was residing in the home for at least 1 year immediately before the date the recipient was admitted to the medical institution,

➥ is lawfully residing in the home.

3. Upon the death of a recipient, the Department may seek a lien upon the recipient's undivided estate as defined in NRS 422.054.

4. ***The amount of the lien recovery must be based on the value of the real or personal property at the time of sale of the property.***

5. The Director shall release a lien pursuant to this section:

(a) Upon notice by the recipient or his representative to the Director that the recipient has been discharged from the medical institution and has returned home;

(b) If the lien was incorrectly determined; or

(c) Upon satisfaction of the claim of the Department.

~~[Sec. 12.]~~ ***Sec. 13.*** NRS 422.3775 is hereby amended to read as follows:

422.3775 1. Each nursing facility that is licensed in this State shall pay a fee assessed by the Division to increase the quality of nursing care in this State.

2. To determine the amount of the fee to assess pursuant to this section, the Division shall establish a ~~[uniform]~~ rate per non-Medicare patient day that is equivalent to ~~[6 percent]~~ ***a percentage*** of the total annual accrual basis gross revenue for services provided to patients of all nursing facilities licensed in this State. ***The percentage used to establish the rate must not exceed that allowed by federal law.*** For the purposes of this subsection, total annual accrual basis gross revenue does not include charitable contributions received by a nursing facility.

3. The Division shall calculate the fee owed by each nursing facility by multiplying the total number of days of care provided to non-Medicare

patients by the nursing facility, as provided to the Division pursuant to NRS 422.378, by the ~~[uniform]~~ rate established pursuant to subsection 2.

4. A fee assessed pursuant to this section is due 30 days after the end of the month for which the fee was assessed.

5. The payment of a fee to the Division pursuant to NRS 422.3755 to 422.379, inclusive, is an allowable cost for Medicaid reimbursement purposes.

~~[Sec. 13.]~~ ***Sec. 14.*** NRS 422.379 is hereby amended to read as follows:

422.379 ***1.*** The Division shall establish administrative penalties for the late payment by a nursing facility of a fee assessed pursuant to NRS 422.3755 to 422.379, inclusive.

2. The Division may recoup any payments made to nursing facilities providing services pursuant to the Medicaid program up to the amount of the fees owed as determined pursuant to NRS 422.3775 and any administrative penalties owed pursuant to subsection 1 if a nursing facility fails to remit the fees and administrative penalties owed within 30 days after the date they are due. Before recoupment of payments pursuant to this subsection, the Division may allow a nursing facility that fails to remit fees and administrative penalties owed an opportunity to negotiate a repayment plan with the Division. The terms of the repayment plan may be established at the discretion of the Division.

Sec. 15. **NRS 422.410 is hereby amended to read as follows:**

422.410 1. Unless a different penalty is provided pursuant to NRS 422.361 to 422.369, inclusive, or 422.450 to 422.590, inclusive, a person who knowingly and designedly, by any false pretense, false or misleading statement, impersonation***,*** ~~[or]~~ misrepresentation, ***or concealment, transfer, disposal or assignment of money or property*** obtains or attempts to obtain monetary or any other public assistance, or money, property, medical or remedial care or any other service provided pursuant to the Children's Health Insurance Program, having a value of $100 or more, whether by one act or a series of acts, with the intent to cheat, defraud or defeat the purposes of this chapter ***or to enable a person to meet or appear to meet any requirements of eligibility prescribed by state law or by rule or regulation adopted by the Department for a grant or an increase in a grant of any type of public assistance*** is guilty of a category E felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. For the purposes of subsection 1, whenever a recipient of Temporary Assistance for Needy Families pursuant to the provisions of this chapter and chapter 422A of NRS receives an overpayment of benefits for the third time and the overpayments have resulted from a false statement or representation by the recipient or from the failure of the recipient to notify the Division of Welfare and Supportive Services of the Department of a change in his

circumstances which would affect the amount of assistance he receives, a rebuttable presumption arises that the payment was fraudulently received.

3. For the purposes of subsection 1, "public assistance" includes any money, property, medical or remedial care or any other service provided pursuant to a state plan.

~~[Sec. 14.]~~ ***Sec. 16.*** NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, whether or not the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 **,** ~~[(]~~ 29 U.S.C.A. § 1167(1) **,** ~~[),]~~ service benefit plan, ***self-insured plan*** or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessaries for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care,

custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:

(a) Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and

(b) The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.

~~[Sec. 15.]~~ ***Sec. 17.*** NRS 108.850 is hereby amended to read as follows:

108.850 1. A petition to the district court for the imposition of a lien as described and limited in NRS 422.29306 to recover money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid must set forth:

(a) The facts concerning the giving of assistance;

(b) The name and address of the person who is receiving or who received the benefits for Medicaid;

(c) A description of the property, sufficient for identification ***;*** ~~[, and its estimated value;]~~

(d) The names, ages, residences and relationship of all persons who are claiming an interest in the property or who are listed as having any interest in the property, so far as known to the petitioner; and

(e) An itemized list of the amount owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid.

2. No defect of form or in the statement of facts actually existing voids the petition for the lien.

~~[Sec. 16.]~~ ***Sec. 18.*** NRS 132.185 is hereby amended to read as follows:

132.185 "Interested person" includes ***, without limitation,*** an heir, devisee, child, spouse, creditor, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent ~~[.]~~ ***, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid.*** The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

~~[Sec. 17.]~~ ***Sec. 19.*** NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward.

(b) Continue the business of the ward.

(c) Borrow money for the ward.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives.

(f) Sell, lease, place into any type of trust or surrender any property of the ward.

(g) Exchange or partition the ward's property.

(h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(i) Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.

(j) Exercise or release the power of the ward as a donee of a power of appointment.

(k) Change the state of residence or domicile of the ward.

(l) Exercise the right of the ward to take under or against a will.

(m) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(n) Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

(o) ***Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.***

(p) Take any other action which the guardian deems would be in the best interests of the ward.

2. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

3. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

4. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed **,** the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward, or to complete contracts of the ward.

~~[Sec. 18.]~~ ***Sec. 20.*** NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider having the care, custody or control of the ward.

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) ***The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.***

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

~~[Sec. 19.]~~ ***Sec. 21.*** NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, ***Director of the Department of Health and Human Services,*** public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

~~[Sec. 20.]~~ ***Sec. 22.*** NRS 239A.075 is hereby amended to read as follows:

239A.075 Upon presentation of a death certificate, affidavit of death or other proof of death, a financial institution shall provide ***the Director of the Department of Health and Human Services or*** a public administrator with a statement which sets forth the identifying number and account balance of any accounts on which only the name of the deceased person appears. A financial institution may charge a reasonable fee, not to exceed $2, to provide a public administrator with a statement pursuant to the provisions of this section.

~~[Sec. 21.]~~ ***Sec. 23.*** NRS 357.040 is hereby amended to read as follows:

357.040 1. Except as otherwise provided in NRS 357.050, a person who, with or without specific intent to defraud, does any of the following listed acts is liable to the State or a political subdivision, whichever is affected, for three times the amount of damages sustained by the State or political subdivision because of the act of that person, for the costs of a civil action brought to recover those damages and for a civil penalty of not less than ~~[$2,000]~~ ***$5,000*** or more than $10,000 for each act:

(a) Knowingly presents or causes to be presented a false claim for payment or approval.

(b) Knowingly makes or uses, or causes to be made or used, a false record or statement to obtain payment or approval of a false claim.

(c) Conspires to defraud by obtaining allowance or payment of a false claim.

(d) Has possession, custody or control of public property or money and knowingly delivers or causes to be delivered to the State or a political subdivision less money or property than the amount for which he receives a receipt.

(e) Is authorized to prepare or deliver a receipt for money or property to be used by the State or a political subdivision and knowingly prepares or delivers a receipt that falsely represents the money or property.

(f) Knowingly buys, or receives as security for an obligation, public property from a person who is not authorized to sell or pledge the property.

(g) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the State or a political subdivision.

(h) Is a beneficiary of an inadvertent submission of a false claim and, after discovering the falsity of the claim, fails to disclose the falsity to the State or political subdivision within a reasonable time.

2. As used in this section, a person acts "knowingly" with respect to information if he:

(a) Has knowledge of the information;

(b) Acts in deliberate ignorance of whether the information is true or false; or

(c) Acts in reckless disregard of the truth or falsity of the information.

~~[Sec. 22.]~~ ***Sec. 24.*** NRS 357.070 is hereby amended to read as follows:

357.070 The Attorney General ~~[may]~~ ***shall*** investigate any alleged liability pursuant to this chapter and may bring a civil action pursuant to this chapter against the person liable.

~~[Sec. 23.]~~ ***Sec. 25.*** NRS 357.080 is hereby amended to read as follows:

357.080 1. Except as otherwise provided in this section and NRS 357.090 and 357.100, a private plaintiff may maintain an action pursuant to this chapter on his own account and that of the State if money, property or services provided by the State are involved, or on his own account and that of a political subdivision if money, property or services provided by the political subdivision are involved, or on his own account and that of both the State and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only with leave of the court, taking into account the public purposes of this chapter and the best interests of the parties.

2. If a private plaintiff brings an action pursuant to this chapter, no other person may bring another action pursuant to this chapter based on the same facts.

3. An action may not be maintained by a private plaintiff pursuant to this chapter:

(a) Against a member of the Legislature or the Judiciary, an elected officer of the Executive Department of the State Government, or a member of the governing body of a political subdivision, if the action is based upon evidence or information known to the State or political subdivision at the time the action was brought.

(b) If the action is based upon allegations or transactions that are the subject of a civil action or an administrative proceeding for a monetary penalty to which the State or political subdivision is already a party.

4. A complaint filed pursuant to this section must be placed under seal and so remain ***for at least 60 days or*** until the Attorney General has elected whether to intervene. No service may be made upon the defendant until the complaint is unsealed.

5. On the date the private plaintiff files his complaint, he shall send a copy of the complaint to the Attorney General by mail with return receipt requested. He shall send with each copy of the complaint a written disclosure of substantially all material evidence and information he possesses.

6. An action pursuant to this chapter may be brought in any judicial district in this State in which the defendant can be found, resides, transacts business or in which any of the alleged fraudulent activities occurred.

~~[Sec. 24.]~~ ***Sec. 26.*** NRS 357.110 is hereby amended to read as follows:

357.110 1. Within ~~[120]~~ ***60*** days after receiving a complaint and disclosure, the Attorney General may intervene and proceed with the action or he may, for good cause shown, move the court to extend the time for his

election whether to proceed. The motion may be supported by affidavits or other submissions in chambers.

2. If the Attorney General elects to intervene, the complaint must be unsealed. If the Attorney General elects not to intervene, the private plaintiff may proceed and the complaint must be unsealed.

~~[Sec. 25.]~~ ***Sec. 27.*** NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date ~~[of discovery of the fraudulent activity by]~~ ***on which*** the Attorney General ***discovers, or reasonably should have discovered, the fraudulent activity*** or more than ~~[5]~~ ***6*** years after the fraudulent activity occurred, ~~[whichever is earlier.]~~ ***but in no event more than 10 years after the fraudulent activity occurred.*** Within those limits, an action may be based upon fraudulent activity that occurred before ~~[October 1, 1999.]~~ ***July 1, 2007.***

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of guilt in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty or a plea of guilty or nolo contendere, estops the person found guilty from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

~~[Sec. 26.]~~ ***Sec. 28.*** NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired, and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a deed of trust.

(c) The mortgagee under a mortgage.

(d) The person to whom the property was assessed.

(e) The person holding a contract to purchase the property before its conveyance to the county treasurer.

(f) ***The Director of the Department of Health and Human Services if the owner has received or is receiving any benefits from Medicaid.***

(g) The successor in interest of any person specified in this subsection.

5. Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter:

(a) Must:

(1) Be in writing.

(2) Be signed by one or more of the persons identified in subsection 4.

(3) Include a description of the property.

(4) Include the value of the property.

(b) Must not impose a fee that is more than 10 percent of the total value of the property.

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

~~[Sec. 27.]~~ ***Sec. 29.*** NRS 439B.360 is hereby amended to read as follows:

439B.360 1. The Director shall evaluate the effectiveness of the program established pursuant to NRS 439B.350 annually. The evaluation must include, without limitation ~~[~~:

~~(a) Determining the total number of children under the age of 13 years who reside in this State and the number of such children who have received health care services through a federal, state or local governmental program during the previous year; and~~

~~(b) Measuring]~~ ***, measuring*** the effectiveness of the content, form and method of dissemination of information through the program.

2. The Director shall make any necessary recommendations to improve the program based upon his evaluation.

3. On or before December 31 of each year, the Director shall provide a written report to the Interim Finance Committee concerning the results of the evaluation and any recommendations made to improve the program.

~~[Sec. 28.]~~ ***Sec. 30.*** NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care,

facility for skilled nursing or residential facility for groups to an applicant or may suspend or revoke the license of a licensee to operate such a facility if:

(a) The applicant or licensee has been convicted of:

(1) Murder, voluntary manslaughter or mayhem;

(2) Assault with intent to kill or to commit sexual assault or mayhem;

(3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(4) Abuse or neglect of a child or contributory delinquency;

(5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;

(6) A violation of any provision of NRS 200.50955 or 200.5099;

(7) ***A violation of any provision of NRS 422.450 to 422.590, inclusive;***

(8) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(8)]~~ ***(9)*** Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

(b) The licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

~~[Sec. 29.]~~ ***Sec. 31.*** NRS 689A.430 is hereby amended to read as follows:

689A.430 1. An insurer shall not, when considering eligibility for coverage or making payments under a policy of health insurance, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, ***self-insured plan,*** group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 **,** ~~[(]~~ 29 U.S.C.A. § 1167(1) **,** ~~[),]~~ service benefit plan ~~[, health maintenance organization]~~ or other organization that has issued a policy of health insurance:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any right of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a policy of health insurance,

➥ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 30.]~~ ***Sec. 32.*** NRS 689B.300 is hereby amended to read as follows:

689B.300 1. An insurer shall not, when considering eligibility for coverage or making payments under a group health policy, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, ***self-insured plan,*** group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 ***,*** ~~[(]~~ 29 U.S.C.A. § 1167(1) ***, [***~~), health maintenance organization]~~ or other organization that has issued a group health policy:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a group health policy,

➥ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 31.]~~ ***Sec. 33.*** NRS 695A.151 is hereby amended to read as follows:

695A.151 1. A society shall not, when considering eligibility for coverage or making payments under a certificate for health benefits, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a society:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its certificate for health benefits, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any reimbursement rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a certificate for health benefits,

➥ the society that issued the health policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the certificate.

4. If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, a society that issues a certificate for health benefits, evidence of coverage or contract shall:

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the society; and

(2) The nature of the coverage that is or was provided by the society, including, without limitation, the name and address of the insured and the identifying number of the certificate for health benefits, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 32.]~~ ***Sec. 34.*** NRS 695B.340 is hereby amended to read as follows:

695B.340 1. A corporation shall not, when considering eligibility for coverage or making payments under a contract, consider the availability of, or any eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a corporation:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits of a subscriber or policyholder or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber or policyholder.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a contract,

➥ the corporation that issued the contract shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same contract.

4. If a state agency is assigned any rights of a subscriber or policyholder who is eligible for medical assistance under Medicaid, a corporation shall:

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber or policyholder to determine:

(1) Any period during which the subscriber or policyholder, his spouse or dependent may be or may have been covered by a contract; and

(2) The nature of the coverage that is or was provided by the corporation, including, without limitation, the name and address of the subscriber or policyholder and the identifying number of the contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 33.]~~ ***Sec. 35.*** NRS 695C.163 is hereby amended to read as follows:

695C.163 1. A health maintenance organization shall not, when considering eligibility for coverage or making payments under a health care

plan, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a health maintenance organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due an enrollee or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its plan, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its enrollee.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a health care plan,

➥ the organization responsible for the health care plan shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same plan.

4. If a state agency is assigned any rights of an enrollee who is eligible for medical assistance under Medicaid, a health maintenance organization shall:

(a) Upon request of the state agency, provide to the state agency information regarding the enrollee to determine:

(1) Any period during which the enrollee, his spouse or dependent may be or may have been covered by the health care plan; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the enrollee and the identifying number of the health care plan;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 34.]~~ ***Sec. 36.*** NRS 695F.440 is hereby amended to read as follows:

695F.440 1. An organization shall not, when considering eligibility for coverage or making payments under any evidence of coverage, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care **,** a prepaid limited health service organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due a subscriber or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by any evidence of coverage,

➥ the prepaid limited health service organization that issued the evidence of coverage shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by any evidence of coverage.

4. If a state agency is assigned any rights of a subscriber who is eligible for medical assistance under Medicaid, a prepaid limited health service organization shall:

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber to determine:

(1) Any period during which the subscriber, his spouse or dependent may be or may have been covered by the organization; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the subscriber and the identifying number of the evidence of coverage;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 35.]~~ ***Sec. 37.*** This act becomes effective on July 1, 2007.

Assemblywoman Gerhardt moved the adoption of the amendment.

Amendment adopted.

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

Senate Joint Resolution No. 3.

Resolution read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 923.

SUMMARY—Proposes to amend the Nevada Constitution to revise **certain** provisions relating to ~~[signature requirements for initiative petitions.]~~ **elections.** (BDR C-260)

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to **provide that a person must be a resident of the State for 30 days before an election to be eligible to vote in that election, to** require that an initiative petition be proposed by a number of registered voters ~~[equal to a certain percentage of the population of the State, or]~~ equal to a certain percentage of registered voters who voted in the last preceding election ~~[, who reside in each county of the State in the same proportion as the population of the county bears to the total population of the State.]~~ **and to remove requirements concerning affidavits that must be affixed to referendum petitions and initiative petitions.**

Legislative Counsel's Digest:

Existing law provides that a citizen of the United States who is at least 18 years of age and who has actually, as opposed to constructively, resided in the State for at least 6 months and in the district or county for at least 30 days before an election is eligible to vote. (Nev. Const. Art. 2, § 1)

The United States Supreme Court, in several decisions, has ruled that residency requirements which exceed the amount of time required to complete election administrative procedures do not further any compelling state interest and violate the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. (Dunn v. Blumstein, 92 S. Ct. 995 (1972); Marston v. Lewis, 93 S. Ct. 1211 (1973); Burns v. Fortson, 93 S. Ct. 1209 (1973))

This resolution proposes to amend the Nevada Constitution to eliminate the 6-month state residency requirement. A person will be eligible to vote after residing for 30 days in a district or county in this State.

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2)

The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution

violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (***Committee to Regulate and Control Marijuana v. Heller***, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (***American Civil Liberties Union of Nevada v. Lomax***, 471 F.3d 1010 (9th Cir. Nev. 2006))

This resolution proposes to amend the Nevada Constitution to remove those provisions which were found unconstitutional and replace them with a requirement that an initiative petition must be signed by a number of registered voters that equals ~~[at least 4 percent of the total population of the State, as determined by the last preceding decennial census, or]~~ at least 10 percent of the total number of voters who voted at the last preceding general election **.** ~~[, whichever number is less. The signatures must be gathered from registered voters who reside in each county in the State in the same proportion as the population of the county bears to the total population of the State.]~~

Existing law currently provides that there must be attached to each document in a referendum petition or initiative petition an affidavit stating that all the signatures on the document are genuine signatures of persons who are registered voters in the counties in which they reside, and that the affidavit must be executed before a person authorized by law to administer oaths in Nevada, such as a notary public. (Nev. Const. Art. 19, § 3) The Nevada Supreme Court has ruled that the affidavit requirements set forth in Section 3 of Article 19 of the Nevada Constitution are an impermissible burden on political speech and, therefore, unconstitutional under the First Amendment to the United States Constitution. (*Secretary of State v. Give Nevada a Raise, Inc.*, 120 Nev. 481 (2004))

This resolution proposes to amend the Nevada Constitution to remove the affidavit requirements set forth in Section 3 of Article 19.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That **Section 1 of Article 2 of the Nevada Constitution be amended to read as follows:**

Section 1. All citizens of the United States (not laboring under the disabilities named in this constitution) of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state ~~[six months,]~~ and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now or hereafter may be elected by the people, and upon all questions submitted to the electors at such election; provided, that no person who has been or may be convicted of treason or felony in any state or territory of the United States, unless restored to civil rights, and no person who has been adjudicated mentally

incompetent, unless restored to legal capacity, shall be entitled to the privilege of an elector. There shall be no denial of the elective franchise at any election on account of sex. The legislature may provide by law the conditions under which a citizen of the United States who does not have the status of an elector in another state and who does not meet the residence requirements of this section may vote in this state for President and Vice President of the United States.

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a ***total*** number of registered voters equal to ***at least*** 10 percent ~~[or more]~~ of the number of voters who voted at the last preceding general election ~~[in not less than 75 percent of the counties]~~ in ~~*[or at least 4 percent of the total population of]*~~ the State. ~~[, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.]~~ ~~*[, as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), whichever total number of registered voters is less. The number of registered voters who propose the initiative petition must reside in each county of the State in the same proportion as the population of the applicable county bears to the total population of the State.]*~~

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed

statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further

action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

And be it further

RESOLVED, That Section 3 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 3. 1. Each referendum petition and initiative petition shall include the full text of the measure proposed. Each signer shall affix thereto his or her signature, residence address and the name of the county in which he or she is a registered voter. The petition may consist of more than one document . ~~[, but each document shall have affixed thereto an affidavit made by one of the signers of such document to the effect that all of the signatures are genuine and that each individual who signed such document was at the time of signing a registered voter in the county of his or her residence. The affidavit shall be executed before a person authorized by law to administer oaths in the State of Nevada. The enacting clause of all statutes or~~

~~amendments proposed by initiative petition shall be: "The People of the State of Nevada do enact as follows:"]~~

2. The Legislature may authorize the Secretary of State and the other public officers to use generally accepted statistical procedures in conducting a preliminary verification of the number of signatures submitted in connection with a referendum petition or an initiative petition, and for this purpose to require petitions to be filed no more than 65 days earlier than is otherwise required by this Article.

And be it further

RESOLVED, That the provisions of Assembly Joint Resolution No. 10 of the 73rd Session of the Nevada Legislature are hereby repealed.

And be it further

RESOLVED, That the provisions of Senate Joint Resolution No. 1 of the 74th Session of the Nevada Legislature are hereby repealed.

Assemblyman Mortenson moved the adoption of the amendment.

Amendment adopted.

Resolution ordered reprinted, re-engrossed and to the General File.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 196 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 203 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 401 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 436 be taken from the Chief Clerk's desk and placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 203.

Bill read second time.

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

Amendment No. 842.

AN ACT relating to local financial administration; revising provisions concerning the proceeds of the fee authorized to be imposed in certain counties to pay for certain baseball stadium projects in certain circumstances; extending the dates for the reversion of certain money previously transferred and appropriated to the Interim Finance Committee to be allocated for

Truckee River improvement related projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) may impose a fee upon the rental of passenger vehicles and issue revenue bonds of the county to acquire, improve, equip, operate and maintain a minor league baseball stadium project to be used for the home games of a Double-A or Triple-A affiliate of a Major League Baseball team. (NRS 244A.0344, 244A.058, 244A.800, 244A.830) Section 9.5 of this bill requires such a board of county commissioners to determine whether certain criteria for the minor league baseball stadium project have been met by October 1, 2007, and make a finding if all the criteria have been met. If the criteria have not been met by October 1, 2007, sections 1-6 of this bill allow the proceeds of the applicable fees on the rental of passenger vehicles and related revenue bonds to be used to acquire, **lease,** improve, equip, operate and maintain any project that has been approved by the Legislature, if the Legislature is in session, or by the Interim Finance Committee, if the Legislature is not in session. Such a project may include the acquisition, **lease,** improvement, equipment, operation and maintenance of a baseball stadium that can be used for the home games of any professional baseball team, and for certain other purposes, regardless of whether the professional baseball team is affiliated with a Major League Baseball team.

For the 2005-2007 biennium, $650,000 was transferred from the Fund for the Promotion of Tourism to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority to carry out a maximum of four projects relating to the improvement of the Truckee River. (Section 5 of chapter 454, Statutes of Nevada 2005, p. 2088) For the same biennium, $600,000 was appropriated from the State General Fund to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority for the same purpose. (Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, p. 120) Sections 7 and 8 of this bill extend the dates by which the remaining balance of this money reverts to the applicable Funds by 2 years.

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

Section 1. Chapter 244A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, lease, improve, equip, operate and maintain within the county a project that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the Legislature is not in session.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, the project described in paragraph (a).

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

Sec. 1.5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, ***and section 1 of this act*** shall be known as the County Bond Law.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 244A.0344 is hereby amended to read as follows:

244A.0344 ~~["Minor league]~~ ***"Professional*** baseball stadium project" means a baseball stadium which can be used for the home games of ~~[an AA or AAA minor league]~~ ***a*** professional baseball team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a ~~[minor league]~~ ***professional*** baseball stadium, including, without limitation, all types of property therefor.

Sec. 2.7. **NRS 244A.058 is hereby amended to read as follows:**

244A.058 1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, ***lease,*** improve, equip, operate and maintain within the county a minor league baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, ***lease,*** improve or equip, or any combination thereof, within the county a minor league baseball stadium project.

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the minor league baseball stadium project, including, without limitation, amounts received from any minor league baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a minor league baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the minor league baseball stadium project, and any and all other sources of revenue attributable to the minor league baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a minor league baseball stadium

project, except that the contract must include a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract.

Sec. 3. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board ~~[that has adopted an ordinance imposing a fee pursuant to NRS 244A.810]~~ ***in a county whose population is 100,000 or more but less than 400,000*** may, on behalf of the county and in its name:

(a) Acquire, ***lease,*** improve, equip, operate and maintain within the county a ~~[minor league]~~ ***professional*** baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, ***lease,*** improve or equip, or any combination thereof, within the county a ~~[minor league]~~ ***professional*** baseball stadium project.

2. Bonds issued pursuant to this section must be ~~[payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally]~~ secured by and payable from the gross or net revenues of the ~~[minor league]~~ ***professional*** baseball stadium project, including, without limitation, amounts received from any ~~[minor league]~~ ***professional*** baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a ~~[minor league]~~ ***professional*** baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the ~~[minor league]~~ ***professional*** baseball stadium project, and any and all other sources of revenue attributable to the ~~[minor league]~~ ***professional*** baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a professional baseball stadium project, except that the contract must include a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract.

Sec. 4. NRS 244A.800 is hereby amended to read as follows:

244A.800 As used in NRS 244A.800 to 244A.830, inclusive:

1. "Department" means the Department of Taxation.

2. ~~["Minor league]~~ ***"Professional*** baseball stadium project" has the meaning ascribed to it in NRS 244A.0344.

Sec. 4.5. **NRS 244A.810 is hereby amended to read as follows:**

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, ***lease,*** improve, equip, operate and maintain within the county a minor league baseball stadium project, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 5. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, ***lease,*** improve, equip, operate and maintain within the county a ~~[minor league baseball stadium]~~ project ~~[,]~~ ***that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the***

Legislature is not in session, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 6. NRS 244A.830 is hereby amended to read as follows:

244A.830 1. A board of county commissioners that ~~[adopts an ordinance imposing a fee pursuant to NRS 244A.810]~~ ***acquires, leases, improves, equips, operates and maintains within the county a professional baseball stadium project*** ~~[shall]~~ ***may*** create a stadium authority to operate the ~~[minor league]~~ ***professional*** baseball stadium project.

2. If a stadium authority is created:

(a) The stadium authority must consist of:

~~[(a)]~~ ***(1)*** One member of the board of county commissioners appointed by the board;

~~[(b)]~~ ***(2)*** One member from the governing body of each city in the county whose population is 60,000 or more, appointed by that governing body; and

~~[(c)]~~ ***(3)*** If the stadium authority enters into an agreement with ~~[an AA or AAA minor league]~~ ***a professional*** baseball team pursuant to which the team agrees to play its home games in the stadium, two persons appointed by the owner of the team.

~~[2.]~~ ***(b)*** The members of the stadium authority serve at the pleasure of the governmental entity or person who appointed them to serve in that capacity.

~~[3.]~~ ***(c)*** The stadium authority shall:

~~[(a)]~~ ***(1)*** Be responsible for the normal operations of the ~~[minor league]~~ ***professional*** baseball stadium project ~~[; and~~

~~(b)]~~ ***or such operations as may be specified in the agreement entered into pursuant to subparagraph (2); and***

(2) Enter into an agreement with the board of county commissioners that sets forth the specific rights, obligations and duties of the stadium authority regarding those operations.

Sec. 7. Section 5 of chapter 454, Statutes of Nevada 2005, at page 2088, is hereby amended to read as follows:

Sec. 5. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2005, and July 1, 2006, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient

lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Interim Finance Committee:

For the Fiscal Year 2005-2006 $600,000

For the Fiscal Year 2006-2007 $50,000

2. The money transferred pursuant to subsection 1 shall be allocated to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

3. The Interim Finance Committee shall allocate the money transferred pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

4. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~[2006,]~~ ***2008,*** that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~[2006.]~~ ***2008.***

5. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 3 and 4.

6. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

7. Any remaining balance of the sums transferred pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ ***2009,*** and must be reverted to the Fund for the Promotion of Tourism on or before September ~~[21, 2007.]~~ ***18, 2009.***

Sec. 8. Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, at page 120, is hereby amended to read as follows:

Sec. 32. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of $600,000 for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

2. The Interim Finance Committee shall allocate the money appropriated pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

3. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~[2006,]~~ ***2008,*** that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~[2006.]~~ ***2008.***

4. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 2 and 3.

5. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

6. Any remaining balance of the sums appropriated pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ ***2009,*** and must be reverted to the State General Fund on or before September ~~[21, 2007.]~~ ***18, 2009.***

Sec. 9. (Deleted by amendment.)

Sec. 9.5. 1. The board of county commissioners of a county whose population is 100,000 or more but less than 400,000 shall determine whether the following criteria for the minor league baseball stadium project, as defined in NRS 244A.0344, have been met before October 1, 2007:

(a) An agreement has been entered into with a minor league baseball team to play its home games at a baseball stadium that will be acquired, **leased,** improved, equipped, operated and maintained within the county;

(b) If relocation of the minor league baseball team is required, approval for relocation of the team by the relevant league has been obtained;

(c) The site for the minor league baseball stadium has been acquired ~~[.]~~ **or leased;** and

(d) Any approval required for the construction or improvement of the minor league baseball stadium has been obtained.

2. If the board determines pursuant to subsection 1 that all the criteria set forth in that subsection have been met, the board shall, as soon as practicable, make a finding indicating that all the criteria for the minor league baseball stadium project have been met. Such a finding is conclusive absent fraud or abuse of discretion.

Sec. 10. 1. This section and sections 7, 8 and 9.5 of this act become effective upon passage and approval.

2. **Sections 2.7 and 4.5 of this act become effective upon passage and approval and expire by limitation on October 1, 2007, if the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 has not made a finding pursuant to section 9.5 of this act.**

3. Sections 1 ~~[to 6, inclusive,]~~ **, 1.5, 2.5, 3, 4, 5 and 6** of this act become effective on October 1, 2007, if the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 has not made a finding pursuant to section 9.5 of this act.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 436.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 944.

AN ACT relating to common-interest communities; ~~[revising various provisions governing the imposition and payment of certain fines and assessments; revising various provisions governing the election of members of the executive board; providing that certain unapproved books, records and other papers are not required to be made available to a unit's owner;]~~ **revising provisions governing restrictions on the use of systems for obtaining solar or wind energy;** revising the provisions governing the regulation of certain streets in certain common-interest communities; **exempting associations located in certain smaller counties from using a reserve study specialist for conducting a study of reserves; exempting associations located in certain smaller counties from using an independent certified public account for certain financial matters;**

making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 1.4 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 1.6 of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 21.5 of this bill ~~[specify how to determine if a restriction significantly decreases the efficiency or performance of such a system and places the burden on the property owner to show such a decrease.]~~ **provide that the only restriction on the use of such a system is with respect to color in certain circumstances.**

~~[Section 1.8 of this bill adds community managers of common-interest communities as persons whose health, safety and welfare may be threatened by violations of a unit-owners' association's governing documents, authorizing the imposition of fines. (NRS 116.31031) This section also provides that a unit's owner must receive notice of a violation and possible fine, that a member of the executive board cannot participate in hearings on fines if he has not paid his assessments and that the association must provide written confirmation when a fine is paid.~~

~~Section 2 of this bill establishes priorities for the application of a unit owner's payments against assessments and fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto. (NRS 116.310315)~~

~~Section 3 of this bill authorizes candidates for the executive board to be elected without balloting when the number of candidates is less than or equal to the number of members to be elected. (NRS 116.31034) Section 3 also adds items which candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting. (NRS 116.31034)~~

~~Section 4 of this bill requires that a declarant deliver to an association an ancillary audit of the association's money and audited financial statements from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 4 also requires the declarant to pay for the costs of the ancillary audit. (NRS 116.31038)]~~

Sections 4, 8, 12-14 and 16-21 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.31038, 116.750, 116A.120, 116A.260 and 116A.420-116A.900)

~~[Section 6 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not~~

~~less than every 100 days. (NRS 116.31083) Section 6 also provides that if the sole purpose of a meeting is for the executive board to meet in executive session under certain circumstances, notice need not be provided. (NRS 116.31083)~~

~~Section 7 of this bill permits the executive board to impose certain assessments for the purpose of funding a reserve without a vote of the units' owners under certain circumstances. (NRS 116.3115)]~~

Sections 6.3 and 6.7 of this bill provide that in a county whose population is 45,000 or less an association is not required to use a certified public accountant to prepare, present, audit or review certain financial statements. (NRS 116.31142, 116.31144)

Section 8 of this bill ~~[establishes the criteria for evaluating the adequacy of the reserves of an association.]~~ **provides that an association located in a county whose population is 45,000 or less is not required to use a registered reserve study specialist to conduct the study of reserves of the association.** (NRS 116.31152)

~~[Section 9 of this bill excludes the books, records and other papers of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175)]~~

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by State or local governments for public use. (NRS 116.350) ~~[Section 10 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance permit or approval. (NRS 116.350) Section 10 also adds inoperable vehicles to the types of vehicles that an association may restrict the parking or storage of. (NRS 116.350) Finally, section]~~ **Section** 10 **of this bill further** prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 11 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a resident agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

~~[Section 15 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (NRS 116A.410)~~

~~Section 22 of this bill excludes certain unit owners' associations from the definition of "business" for the purposes of requiring business licenses. (NRS 360.765)]~~

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

Section 1. NRS 111.239 is hereby amended to read as follows:

111.239 1. ~~[Any]~~ ***Except as otherwise provided in subsection 2, any*** covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or ~~[unreasonably]~~ restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

2. ~~*[The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.*~~

~~*3. For the purposes of this section]*~~ ~~[,~~ "unreasonably~~]~~ ~~*[.*~~

~~*(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.*~~

~~*(b) "Unreasonably* restricts the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.~~]~~ ***A reasonable covenant, restriction or condition concerning the color of such a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.***

Sec. 1.2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.6 of this act.

Sec. 1.4. ***1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.***

2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.

3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.

Sec. 1.6. ***1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of***

imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.

2. The executive board of a common-interest community shall not impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

3. The governing documents of a common-interest community must not authorize the executive board or any other person to impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

Sec. 1.8. ~~[NRS 116.31031 is hereby amended to read as follows:~~

~~116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:~~

~~(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:~~

~~(1) Voting on matters related to the common-interest community.~~

~~(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.~~

~~(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners , [or] residents or *community manager* of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners , [or] residents *or community manager* of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.~~

~~2. The executive board may not impose a fine pursuant to subsection 1 unless:~~

~~(a) Not less than 30 days before the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed had been~~

~~provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and~~

~~(b) Within a reasonable time after the discovery of the violation, the *unit's owner and, if different, the* person against whom the fine will be imposed has been provided with:~~

~~(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and~~

~~(2) A reasonable opportunity to contest the violation at the hearing.~~

~~*For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is delivered to the address of the unit and, if different, to a mailing address specified by the unit's owner.*~~

~~3. The executive board must schedule the date, time and location for the hearing on the violation so that the *unit's owner and, if different, the* person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.~~

~~4. The executive board must hold a hearing before it may impose the fine, unless *the fine is paid before the hearing or unless* the *unit's owner and, if different, the* person against whom the fine will be imposed:~~

~~(a) [Pays the fine;~~

~~(b)] Executes a written waiver of the right to the hearing; or~~

~~[(c)] *(b)* Fails to appear at the hearing after being provided with proper notice of the hearing.~~

~~5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7 day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.~~

~~6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.~~

~~*7. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:*~~

~~*(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.*~~

~~*(b) Casts a vote in violation of this subsection, the vote is void.*~~

~~*8.* The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a~~

~~fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.~~

~~[8.] 9. Any past due fine:~~

~~(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.~~

~~(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the *units' owners*, residents or *community manager* of the common-interest community, the rate established by the association for the costs of collecting the past due fine:~~

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~

~~(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.~~

~~[9.] *10. Not later than 30 days after receiving payment in full of a fine, including any lawful interest and costs of collection, an association shall provide written confirmation to the person upon whom the fine was imposed that the fine and all related charges have been paid in full and that the fine is discharged.*~~

~~*11.* As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 116.310315 is hereby amended to read as follows:~~

~~116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association [:] *shall:*~~

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

~~2. [Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to~~

~~apply the payment made by the unit's owner in such a manner.]~~ ~~*Apply any payment received from a unit's owner without written instructions as to the application of the payment:*~~

~~*(a) First to current or past due assessments; and*~~

~~*(b) Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 116.31034 is hereby amended to read as follows:~~

~~116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.~~

~~2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.~~

~~3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:~~

~~(a) Members of the executive board who are appointed by the declarant; and~~

~~(b) Members of the executive board who serve a term of 1 year or less.~~

~~4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. *Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:*~~

~~*(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;*~~

(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of closing of the prescribed period for nominations; and

(c) Units' owners will receive notification that the candidates so nominated have been elected to the executive board.

5. Each person [whose name is placed on the ballot] *who is nominated* as a candidate for a member of the executive board *pursuant to subsection 4* must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate [has] .:

(1) Has any unpaid and past due assessments or construction penalties that are required to be paid to the association [.] ;

(2) Has any unpaid fine imposed by the executive board that is 30 days or more past due; or

(3) After being provided notice and the opportunity for a hearing in accordance with the provisions of NRS 116.31031, has been found to have committed a violation of the governing documents that has not been cured.

. The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot or, *in the event ballots are not prepared and mailed pursuant to subsection 4,* in the manner established *for distribution of ballots* in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may

~~be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:~~

~~(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and~~

~~(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.~~

~~8. [The]~~ ~~*Except as otherwise provided in subsection 4, the*~~ ~~election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:~~

~~(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) A quorum is not required for the election of any member of the executive board.~~

~~(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.~~

~~(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.~~

~~9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.]~~ **(Deleted by amendment.)**

Sec. 4. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of inception ~~*[the last audit]*~~ of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. ~~*[The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.]*~~

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 5. ~~[NRS 116.310395 is hereby amended to read as follows:~~

~~116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.~~

~~2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.~~

~~3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first~~ [sale] ~~*close of escrow of a unit.*~~] **(Deleted by amendment.)**

Sec. 6. ~~[NRS 116.31083 is hereby amended to read as follows:~~

~~116.31083 1. A meeting of the executive board must be held at least once every~~ [90] ~~*quarter, and not less than once every 100* days.~~

~~2. Except~~ [in an emergency] ~~*as otherwise provided in subsection 3 or 4* or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:~~

~~(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;~~

~~(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or~~

~~(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.~~

~~3.~~ [In] ~~*Except as otherwise provided in subsection 4, in* an emergency, the secretary or other officer specified in the bylaws of the association shall,~~

~~if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand delivered to each unit within the common interest community or posted in a prominent place or places within the common elements of the association.~~

~~4. *If the sole purpose of a meeting of the executive board is to meet in executive session pursuant to subsection 4 of NRS 116.31085, notice of the meeting pursuant to this section is not required.*~~

~~5. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~[5.] 6. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~[6.] 7. At least once every [90] *quarter, and not less than once every 100* days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:~~

~~(a) A current year-to-date financial statement of the association;~~

~~(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;~~

~~(c) A current reconciliation of the operating account of the association;~~

~~(d) A current reconciliation of the reserve account of the association;~~

~~(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and~~

~~(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.~~

~~[7.] 8. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of~~

~~the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~[8.] 9. Except as otherwise provided in subsection [9] *10* and NRS 116.31085, the minutes of each meeting of the executive board must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) Those members of the executive board who were present and those members who were absent at the meeting;~~

~~(c) The substance of all matters proposed, discussed or decided at the meeting;~~

~~(d) A record of each member's vote on any matter decided by vote at the meeting; and~~

~~(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~[9.] *10.* The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.~~

~~[10.] *11.* The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.~~

~~[11.] *12.* A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.~~

~~[12.] *13.* As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 2 or [5.] *6.]*~~ **(Deleted by amendment.)**

Sec. 6.3. **NRS 116.31142 is hereby amended to read as follows:**

116.31142 1. The Commission shall adopt regulations prescribing the requirements for the preparation and presentation of financial statements of an association pursuant to this chapter.

2. The regulations adopted by the Commission must include, without limitation:

(a) The qualifications necessary for a person to prepare and present financial statements of an association; and

(b) The standards and format to be followed in preparing and presenting financial statements of an association.

3. The Commission shall not adopt regulations requiring that financial statements be prepared by a certified public accountant if the association is located in a county whose population is 45,000 or less.

Sec. 6.7. **NRS 116.31144 is hereby amended to read as follows:**

116.31144 1. Except as otherwise provided in subsection 2, the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited ~~[by an independent certified public accountant]~~ at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited ~~[by an independent certified public accountant]~~ at least once every 4 fiscal years; and

(2) Reviewed ~~[by an independent certified public accountant]~~ every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited ~~[by an independent certified public accountant]~~ every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited ~~[by an independent certified public accountant]~~ if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. ***Each audit and review of the financial statement of an association must be conducted by an independent certified public accountant, unless the association is located in a county whose population is 45,000 or less, and then by a person deemed qualified by the association to conduct such an audit or review.***

4. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association ~~[,]~~ ***which do not conflict with subsection 3;*** and

(b) The standards and format to be followed in auditing or reviewing financial statements of an association.

Sec. 7. ~~[NRS 116.3115 is hereby amended to read as follows:~~

~~116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a~~

~~budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.~~

~~2. Except for assessments under subsections 4 to 7, inclusive:~~

~~(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.~~

~~(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. *Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community if such assessments are made pursuant to findings contained in a study of the reserves of the association prepared by a person who is registered as a reserve study specialist pursuant to chapter 116A of NRS.*~~

~~3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.~~

~~4. To the extent required by the declaration:~~

~~(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and~~

~~(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.~~

~~5. Assessments to pay a judgment against the association may be made only against the units in the common interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.~~

~~6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.~~

~~7. The association of a common interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.~~

~~8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.~~

~~9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.]~~ **(Deleted by amendment.)**

Sec. 8. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ~~[.]~~ ;

(b) At least annually, review the results of that study to determine whether those reserves are sufficient ~~[.]~~ ; and ~~[The reserves shall be deemed adequately funded if:~~

~~(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or~~

~~(2) The amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.]~~

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~[holds a permit issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS ~~[.]~~ ***, unless the association is located in a county whose population is 45,000 or less, and then by a person deemed qualified by the executive board to conduct such a study.***

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b),

after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 9. ~~[NRS 116.31175 is hereby amended to read as follows:~~

~~116.31175 — 1. — Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:~~

~~(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;~~

~~(b) The records of the association relating to another unit's owner, except for those records described in subsection 2;~~ [and]

~~(c) A contract between the association and an attorney~~ [.] ~~*; and*~~

~~*(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:*~~

~~*(1) Is in the process of being developed for final consideration by the executive board; and*~~

~~*(2) Has not been placed on an agenda for final approval by the executive board.*~~

~~2. — The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:~~

~~(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or~~

~~construction penalty, the general record must specify the amount of the fine or construction penalty.~~

~~(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.~~

~~(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.~~

~~3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:~~

~~(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and~~

~~(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.~~

~~4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:~~

~~(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or~~

~~(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.~~

~~5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the ~~:~~

~~*(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or*~~

~~*(b) The]*~~ parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to

whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 11. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ ***, 3 and 4,*** a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A resident agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 12. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ ***is registered as a reserve study specialist, or who conducts a study of reserves,*** pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 13. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ ***"Registration"*** means ~~[a permit]~~ ***registration*** to conduct a study of the reserves of an association pursuant to NRS 116.31152 ~~[issued by]~~ ***with*** the Division pursuant to this chapter.

Sec. 14. NRS 116A.260 is hereby amended to read as follows:

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

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

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

3. Denials of applications made to that district office for examination **,** ***registration*** or issuance of a certificate **.** ~~[or permit.]~~

Sec. 15. ~~[NRS 116A.410 is hereby amended to read as follows:~~

~~116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:~~

~~(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. *The regulations must include, without limitation, provisions that:*~~

~~*(1) Provide for the issuance of a temporary certificate for a 1 year period to a person who:*~~

~~*(I) Holds a professional designation in the field of management of a common interest community from a nationally recognized organization;*~~

~~*(II) Provides evidence that the person has been engaged in the management of a common interest community for at least 5 years; and*~~

~~*(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common interest community.*~~

~~*(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1 year period to a person who:*~~

~~*(I) Receives an offer of employment as a community manager from an association; and*~~

~~*(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.*~~

~~*(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).*~~

~~*(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common Interest Ownership Act within the 1-year period.*~~

~~*(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:*~~

~~*(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common Interest Ownership Act; and*~~

~~*(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.*~~

~~*(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):*~~

~~*(1) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and*~~

~~*(II) Must not be treated as a limited, restricted or provisional form of a certificate.*~~

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

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

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

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

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

~~*3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:*~~

~~*(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and*~~

~~*(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.]~~ **(Deleted by amendment.)***

Sec. 16. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~[holds a permit.]~~ ***registers with the Division on a form provided by the Division.***

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

3. The Division may investigate any reserve study specialist ~~[who holds a permit]~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

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

(a) Refuse to ~~[issue a permit to]~~ ***accept the registration of*** a person who has failed to pay money which the person owes to the Commission or the Division.

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

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

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 17. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ ***registration*** by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

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

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

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

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

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

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

Sec. 18. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~[permit]~~ ***registration*** shall submit to the Division:

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

(b) 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 Division shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued ***and an application for registration may not be accepted*** if the applicant:

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

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

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

Sec. 19. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to ***a person who is registered or*** the holder of a certificate ***,*** ~~[or, permit,]~~ the Division shall deem the ***registration or*** certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

Sec. 20. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a ***registration or*** certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a ***registration or*** certificate ~~[or permit]~~ by the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the ***person who is registered or the*** holder of the certificate **.** ~~[or permit.]~~

Sec. 21. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate or ~~[permit]~~ ***registration*** is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or ~~[permit]~~ ***has not registered*** or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 21.5. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or ~~[unreasonably]~~ restricts the owner of real property from using a system for obtaining solar or wind energy on his property. ***A reasonable ordinance, regulation or plan concerning the color of such a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.***

2. ~~[Any]~~ ***Except as otherwise provided in subsection 3, any*** covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or ~~[unreasonably]~~ restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

3. ~~*[The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.*~~

~~*4. For the purposes of this section]*~~ ~~[~~, "unreasonably~~]~~ ~~*[:*~~

~~*(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.*~~

~~*(b) "Unreasonably*~~ ~~restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.]~~ ***A reasonable covenant, restriction or condition concerning the color of a system is enforceable so long as it does not prohibit the owner from using the standard color in which the system is made, does not cost significantly more than another color and does not have the effect of prohibiting the use of such a system.***

Sec. 22. ~~[NRS 360.765 is hereby amended to read as follows:]~~

~~360.765 1. Except as otherwise provided in subsection 2, "business" means:~~

~~(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or~~

~~(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.~~

~~2. The term does not include:~~

~~(a) A governmental entity.~~

~~(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).~~

~~(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.~~

~~(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.~~

~~(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.~~

~~*(f) A unit-owners' association organized pursuant to NRS 116.3101 as a nonprofit corporation, trust or partnership.]*~~ **(Deleted by amendment.)**

Sec. 23. 1. This ~~[act becomes]~~ **section and section 11 of this act become effective on July 1, 2007.**

2. Sections 1 to 10, inclusive, and 12 to 22, inclusive, become effective on October 1, 2007.

~~[2.]~~ **3.** Sections 18 and 19 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

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

Assemblyman Oceguera moved that Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 5:22 p.m.

ASSEMBLY IN SESSION

At 5:24 p.m.
Madam Speaker presiding.
Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which was referred Senate Bill No. 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN OCEGUERA, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 5, 18, 58, 146, 171, 182, 187, 196, 200, 228, 298, 314, 320, 328, 339, 340, 345, 354, 366, 398, 400, 401, 403, 470, 409, 417, 419, 420, 425, 430, 432, 447, 450, 451, 452, 453, 456, 457, 481, 483, 486, 491, 495, 500, 502, 503, 504, 508, 511, 515, 518, 519, 520, 533, 535, 536, 534, 542, 548, 549, 557; Senate Joint Resolutions Nos. 4, 6, 10, 11, 12, 13, 15, 16, 17, 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 Carpenter requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CARPENTER:

Thank you, Madam Speaker. We appreciate you giving us the time and opportunity to conduct the biennial Cowboy Hall of Fame. This is the fifth session that the Cowboy Hall of Fame has been conducted in the Assembly Chamber. It was started by me and the "Urban Cowboy," Wendell Williams. After Wendell did not return, I recruited a real cowboy to continue the Cowboy Hall of Fame, my friend and your friend, Terry Sullivan. The first order of business here would be for the present members of the Hall of Fame to rise and be recognized.

The first one is John "Cowboy" Marvel.

ASSEMBLYMAN MARVEL:

The reason I do not have my hat on is that I had to send it to Jiffy Lube for an oil change.

ASSEMBLYMAN CARPENTER:

We are going take some points off of you. We might have to demote you. The second current member is Moose "Brush Hopper" Arberry. Did you not know you were in the Cowboy Hall of Fame? Well, you are. You are going to get three demerits so stand up. We want you people to stay standing so we know who you are.

Then we have Bernard "Bubba" Anderson. He remembers. Next, we have Barbara "Bucakaroo" Buckley. Mark "Range Rider" Manendo. I do not know if Steve "Fence Mender" Watson is here or not. Steve always helps us with the Cowboy Hall of Fame. Then there is Ellen "Tin Teepee" Koivisto and Kathy "Redneck Woman" McClain. There is also John "Fallon Goat Roper" Oceguera and Jerry "Mule Deer" Claborn. Sheila "Town Tamer" Leslie is a member and so is David "Gid 'er Done" Parks. Harry "State Parks, Rocket Man" Mortenson is the last member. That is the Hall of Fame. Give them a rousing Assembly welcome.

The next order of business will be the presentation of the Cowboy Hall of Fame for our 2007 inductees.

TERRY SULLIVAN:

Can I do a little disclaimer, Mr. Carpenter? While I am doing this, I am not your Sergeant at Arms. I am absolutely flattered to be chosen by Mr. John "The Boss" Carpenter to be his co-cowboy in this prestigious organization. Once it is over, and I mean this seriously, you must not hold any of this against me. I will go right back to calling you all by your first names as I usually do. Your first name to me, like always, is Mister, Miss, or Missus.

ASSEMBLYMAN CARPENTER:

This is the preamble to the Cowboy Hall of Fame: The cowboy way, right in your heart, stand by the code, and it will stand by you. Ask no more and give no less than honesty, courage, loyalty, generosity, and fairness. And never forget your constituent's name.

The first inductee into the Cowboy Hall of Fame for this session is going to be Kelvin "Horse Whisperer" Atkinson. There is no question that Kelvin should be in the Cowboy Hall of Fame because he is the esteemed chairman of Transportation. This year he paid more attention to the horses than he did the people. So, Kelvin, if you would like to step up here, we would like to present you with your plaque and a couple of other little things.

"Whereas, Kelvin 'Horse Whisperer' Atkinson attended the University of Nevada, Las Vegas, and has served three regular sessions and four special sessions by following the cowboy rule of 'Don't interfere with something that ain't bothering you none.'"

Kelvin, there are certain things I need to tell you about horses. Every chairman of Transportation needs a way to get around. That is why we have given you this wonderful horse. The horse's name is Giddyup.

Kelvin, horses always want their ears rubbed. If you rub their ears long enough, they will thank you. Kelvin, you must feed this horse hay three times a day and then properly clean up after him. We have another gift for you. The horse needs to stay in the barn and cannot be in the house. So we have another horse for you that you can keep in your home or in your office. Congratulations.

Here is your proclamation so everyone will know you are an official cowboy.

TERRY SULLIVAN:

"Whereas, Chad 'Greenhorn Christensen' attended Kenny C. Guinn Jr. High School when his style of haircut was actually still in style. Now, you may ask why he is called 'Greenhorn.' Well, because a greenhorn, among other things, is one who cannot make up his mind about certain things. It has become obvious that that hairstyle, in Mr. Christensen's case, is still in the undecided category. Be that as it may, 'Greenhorn' has served three regular and four special sessions by following the cowboy rule of 'Never ask a barber if you need a haircut.'"

ASSEMBLYMAN CARPENTER:

The next inductee is Marcus "Redneck Jedi" Conklin. I was trying to think of something to say about my friend, Marcus. He talks so fast. I thought maybe he was practicing to be the Chief Clerk. The way he gets his exercise is leaving and coming back to Judiciary so many times. I am sure he does not have to go work out after that. He is always going and then coming back.

"Whereas, Marcus 'Redneck Jedi' Conklin, distinguished member of the Nevada Partnership for Homeless Youth, served three regular and four special sessions by following the cowboy rule of 'May the Force be with ya'll.'"

TERRY SULLIVAN:

I have the honor of welcoming Pete "The Professor Fandango" Goicoechea.

"Whereas, Pete 'Professor Fandango' Goicoechea—we call him that because of his smooth dancing style and because he does not dance around the issues; we are not even sure he dances at all, but the Basque people are known for their rhythm—was educated in the White Pine County Schools of eastern Nevada and has served three regular sessions and four special sessions by following the cowboy rule, 'It don't take a rocket scientist to spot a goat in a flock of sheep, and that ain't no bull.'"

ASSEMBLYMAN CARPENTER:

I would like to say that Terry Sullivan and Steve Watson are the ones who make the appointments. There are a lot of secret criteria that go into the selection of the Cowboy Hall of Fame. Pete was lucky to make it this time.

The next inductee is Tom "Smooth Talker" Grady. Tom Grady was born in Tonopah and now he represents all those places to the east. He represents them really well because he knows them all. Awhile back, when we went down to Yerington, he knew every field, cowboy, and farmer. Tom does a great job representing his constituents.

"Whereas, Tom 'Smooth Talker' Grady attended Bishop Manogue High School and the University of Nevada, Reno, and has served three regular and four special sessions by following the cowboy rule of "Generally, you ain't learning nothing when your mouth is a'jawin'.'"

TERRY SULLIVAN:

"Whereas, Joe 'Dr. Sparky' Hardy is the straw that stirs the drink and whose good humor and candor can hide the raging inferno from which fine steel is formed—all of which starts from a spark. Sparky was student body president for Sparks High School, which is another reason to call him Sparky; a Major in the Air Force; and a proud graduate of the University of Nevada School of Medicine. He has served three regular sessions and four special sessions by following the cowboy rule, 'When you lose, don't lose the lesson, and that sure 'nuff is a lesson in itself.'"

ASSEMBLYMAN CARPENTER:

The next inductee is William "Trust Me" Horne. William is getting to be the main speaker around here. He gets up and makes great speeches. We had someone else here who used to do that but I forgot who it was. Anyway, William, we really appreciate you and all the intuition you bring to this institution.

"Whereas, William 'Trust Me' Horne attended the University of Nevada, Las Vegas and the William S. Boyd School of Law and served three regular sessions and four special sessions by following the cowboy rule of 'Remember that silence is sometimes the best answer.'"

TERRY SULLIVAN:

"Whereas, Marilyn 'Daydreamer' Kirkpatrick got her name by spending time dreaming about how she pictured herself as chairman of a committee in which she was sweet and innocent, except for her occasional use of a certain swear word that cannot be repeated here, and never raised her voice in opposition. That surely is a daydream. But 'Daydreamer' did attend Vegas Verde Elementary School and has served two regular sessions and two special sessions by following the cowboy rule of 'Sometimes you get and sometimes you get gotten,'" and that is the truth.

ASSEMBLYMAN CARPENTER:

Thank you, Marilyn. All of you lady inductees are going to get the same present because I did not want you to say I was a . . . whatever it is my wife calls me sometimes.

The next inductee is Dr. "Straw Boss" Mabey. Every time Dr. Mabey gets a little flustered, he turns kind of red. I thought maybe we might just say Garn Mabey is a good guy, he is a good leader, and we appreciate him very much.

"Whereas, Garn 'Straw Boss' Mabey attended the University of Nevada Affiliated Residency and has served three regular sessions and four special sessions by following the cowboy rule of 'Talk slowly and think quickly.'"

TERRY SULLIVAN:

"Whereas, Bonnie 'School Marm' Parnell was selected as the Nevada Teacher of the Year and is now inducted into the much more important Cowboy Hall of Fame. We think that was before anyone realized that the stubbornness the 'School Marm' possesses might have been a deciding factor in either getting her in or out of one or both of these fine organizations. Nonetheless, she has served four regular sessions and four special sessions by following the cowboy rule of 'Good judgment comes from experience, and a lot 'o that experience comes from bad judgment.'" So, even teachers learn by learning, and that is all we have to say about that. Congratulations, Ms. Parnell.

ASSEMBLYMAN CARPENTER:

Peggy "On the Shoot" Pierce, what impresses me most about Peggy is that she is always smiling and she is always going like the devil, like maybe she is looking for a liner or something like that.

"Whereas, Peggy 'On the Shoot' Pierce is a member of Culinary Union Local 226, and served three regular and four special sessions by following the cowboy rule of 'Timing has a lot to do with the outcome of a rain dance.'"

We had a lot of inductees this year. It was hard to choose between them, but all the rest of you who did not make it, just make sure you are following the cowboy way.

TERRY SULLIVAN:

"Whereas, Debbie 'Apple Pie' Smith is as straight an arrow as they come but has been known to imbibe just a tiny bit when in the company of certain colleagues. She is a graduate of Battle Mountain High School—which in itself should have made her less than nearly perfect. She is an advocate for Nevada schools, teachers, and children, especially the four of her own. 'Nanna,' as she is known to her grandchildren, has served three regular and four special sessions, and has always followed the cowboy rule of 'If you get to thinkin' you're a person of some influence, try orderin' someone else's dog around.'"

ASSEMBLYMAN CARPENTER:

The next inductee is Valerie "Boot Scooter" Weber. What impresses me most about Valerie is that sometimes she gets a lot of strange people to introduce on the floor. Valerie is always a lady and always perfect. We are glad to induct her into the Cowboy Hall of Fame. "Whereas, Valerie 'Boot Scooter' Weber is a member of Habitat for Humanity and has served three regular and four special sessions by following the cowboy rule of 'Don't judge people by their relatives.'"

TERRY SULLIVAN:

In this great state, in fact right in this room, we have ropers. We have calf ropers, headers, heelers, and goat ropers. There are rope horses and rope saddles; heck, there are even roper boots. We especially have a team roper.

"Whereas, Robin 'Team Roper' Bates has served the great state of Nevada for over 30 years in the Executive Branch of government and the Nevada Assembly as the deputy Sergeant at Arms for three regular sessions and four special sessions by following the cowboy rule of 'Talk low, talk slow, and don't say too much.'"

ASSEMBLYMAN CARPENTER:

That ends the official part of the program. I see Steve Watson is here. Steve, stand up. If it was not for Steve helping us put together all these little ditties and sayings, we would not have been able to get the Cowboy Hall of Fame going. I want to thank all of you, and I want to thank our Speaker for putting up with this silliness. Maybe next year we will be back or maybe we will not. If I do not come back, I will ask for special permission so that we can do the Cowboy Hall of Fame again. Thank you, all.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 66, 74, 87, 99; Senate Concurrent Resolution No. 46.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Buckley, the privilege of the floor of the Assembly Chamber for this day was extended to Monet Griffin.

On request of Assemblyman Carpenter, the privilege of the floor of the Assembly Chamber for this day was extended to Warren Russell.

On request of Assemblyman Settelmeyer, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Jacks Valley Elementary School: Bridget Campbell, Marco Contreras, Amina Duro, John Estrada, Tony Gonzales, Riley Gruber, Natalie Hancock, Tim Hanifan, Daniel Hensley, Parker Hoshizaki, Jonah Jarvis, Nick Kever, Alejandra Mier, Alicia Montes, Vanessa Moreno, Christina Perry, Alec Pfaffenberger, Michaela Schneider, Hailley Smith, James Striplin, Adam Thielen, Devin Vasser, Amber Williams, Brittney Rhine, Luis Alaniz, Hannah Anderson, Karina Angel, Dakota Boisseau, Charles Batiggi, Jimmie Bryan, Jesse Bullock, Oscar Diaz, Brianna Fahrberger, Brianna Fuentes, Alison Gonder, Julian Gonzales, Edgar Hernandez, DeJaVu Johnson, Ryan Lippincott, Steven Lameli-Estiber, Conor McKay, Katherine Niday, Alexander Provan, Christopher Reichhold, Kaitlyn Scott, Kaylynne Texeira, Bailey Vidaurri, Danisha Williams, Stewart Winkelman, Rudy Cox, Kayrenee Bromley, Sydney Burbank, Betsy Castro-Lopez, Genesis Diaz, Stephen Dowell, Brandon Harmon, Justin Hosler, John Krause, Dillon Lopez, Thomas Mason, Chelsi McNeill, Ariel Nagel, Victor Nunez, Ashleigh Ota, Alondra Ponce, Tiffany Roberts, Mark Seidel, Wyatt Smith, Star Vega, Jack Williams, Zach Kinder, Britney Bennett, Susan Hoffman, Emily Pfaffenberger, Rene Smith, Tracy Gruber, Kelli Hoshizaki, Keely O'Donnell, Linda Niday, Debbie Reichhold, Jennifer Daly, and Axel Vargas.

On request of Assemblyman Stewart, the privilege of the floor of the Assembly Chamber for this day was extended to Nancy McGroarty and Maggie McGroarty.

Assemblyman Oceguera moved that the Assembly adjourn until Friday, May 25, 2007, at 10 a.m.

Motion carried.

Assembly adjourned at 5:26 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly